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# CITY AND COUNTY OF SAN FRANCISCO MUNICIPAL CODE

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## 1996 CHARTER

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**CITY AND COUNTY OF SAN FRANCISCO**

**MUNICIPAL CODE**

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## **PREFACE TO THE**

### **1996 CHARTER**

The Charter of the City and County of San Francisco was adopted on November 7, 1995, and became effective July 1, 1996. This volume contains charter provisions enacted through the election of November 2, 2004.





## **PREAMBLE**

In order to obtain the full benefit of home rule granted by the Constitution of the State of California; to improve the quality of urban life; to encourage the participation of all persons and all sectors in the affairs of the City and County; to enable municipal government to meet the needs of the people effectively and efficiently; to provide for accountability and ethics in public service; to foster social harmony and cohesion; and to assure equality of opportunity for every resident:

We, the people of the City and County of San Francisco, ordain and establish this Charter as the fundamental law of the City and County.



## **ARTICLE I: EXISTENCE AND POWERS OF THE CITY AND COUNTY**

Sec. 1.100. Name and Boundaries.

Sec. 1.101. Rights and Powers.

### **SEC. 1.100. NAME AND BOUNDARIES.**

The City and County of San Francisco shall continue as a consolidated city and county with such boundaries as are prescribed by law, pursuant to this Charter and the laws of the State of California.

### **SEC. 1.101. RIGHTS AND POWERS.**

The City and County of San Francisco may make and enforce all ordinances and regulations in respect to municipal affairs, subject only to the restrictions and limitations provided in this Charter. The City and County may make and enforce within its limits all local police, sanitary and other ordinances and regulations. The City and County may appear, sue and defend in all courts in all matters and proceedings.

All rights and powers of a city and county which are not vested in another officer or entity by this Charter shall be exercised by the Board of Supervisors.



## ARTICLE II: LEGISLATIVE BRANCH

- Sec. 2.100. Composition and Salary.
- Sec. 2.101. Term of Office.
- Sec. 2.102. [Repealed]
- Sec. 2.103. Meetings.
- Sec. 2.104. Quorum.
- Sec. 2.105. Ordinances and Resolutions.
- Sec. 2.106. Veto Override.
- Sec. 2.107. Emergency Ordinances.
- Sec. 2.108. Public's Right to Know.
- Sec. 2.109. Rates, Fees and Similar Charges.
- Sec. 2.111. [Repealed]
- Sec. 2.112. Fidelity Bonds.
- Sec. 2.113. Legislative Initiative.
- Sec. 2.114. Non-interference in Administration.
- Sec. 2.115. Financial Audit.
- Sec. 2.116. President of the Board of Supervisors.
- Sec. 2.117. Offices of the Board of Supervisors.

### SEC. 2.100. COMPOSITION AND SALARY.

The Board of Supervisors shall consist of eleven members elected by district.

The office of Board of Supervisors member is a full time position. The Civil Service Commission shall set the Supervisors' salary once every five years. Before the Commission determines the Supervisors' salary, it shall conduct and consider a salary survey of other full time California City Councils and County Boards of Supervisors and it may consider the Consumer Price Index (CPI).

The Civil Service Commission shall timely transmit its determination of the Supervisors' salary to the Controller, so that funds can be set aside for that purpose. The Controller shall include the Civil Service Commission's determination in appropriate budget documents to insure implementation. This determination may not be changed except by the Civil Service Commission.

The Civil Service Commission shall establish dates for an appropriate five-year cycle for making the determinations required by this Section, in order to efficiently coordinate with City budget processes and related procedures. In order to institute this five-year cycle the initial determination may be for less than a five-year period, as determined by the Civil Service Commission.

If the City and employee organizations agree to amend the compensation provisions of existing memoranda of understanding to reduce costs, the Civil Service Commission shall review and amend the Supervisors' salary as necessary to achieve comparable cost savings in the affected fiscal year or years.

The provisions of this Section shall apply, notwithstanding any other provision of this Charter. (Amended November 1996; June 1998; November 2002)

### SEC. 2.101. TERM OF OFFICE.

Each member of the Board of Supervisors shall be elected at a general election and shall serve a four-year term commencing on the eighth day in January following election and until a successor qualifies. The respective terms of office of the members of the Board of Supervisors in effect on the date this Charter is adopted shall continue.

No person elected or appointed as a Supervisor may serve as such for more than two successive four-year terms. Any person appointed to the office of Supervisor to complete in excess of two years of a four-year term shall be deemed, for the purpose of this section, to have served one full term. No person having served two successive four-year terms may serve as a Supervisor, either by election or appointment, until at least four years after the expiration of the second successive term in office. Any Supervisor who resigns with less than two full years remaining until the expiration of the term shall be deemed, for the purposes of this section, to have served a full four-year term.

Sec. 2.102.

(Repealed November 2001)

#### **SEC. 2.103. MEETINGS.**

The Board of Supervisors shall meet at the legislative chambers in City Hall at 12:00 noon on the eighth day in January in each odd-numbered year. Thereafter, regular meetings shall be held on such dates and at such times as shall be fixed by resolution.

The meetings of the Board shall be held in City Hall, provided that, in case of emergency, the Board, by resolution, may designate some other appropriate place as its temporary meeting place.

Notice of any special meeting shall be published at least 24 hours in advance of such special meeting.

The Board of Supervisors, by motion, may schedule special meetings of the Board in locations in San Francisco other than City Hall. Notice of special meetings being convened outside of City Hall shall be published and posted in City Hall at least 15 days in advance of such special meetings. Motions to schedule special meetings of the Board in locations in San Francisco other than City Hall shall first be introduced and referred to a committee of the Board for hearing and consideration.

The Board of Supervisors, by motion, may authorize a committee of the Board of Supervisors to schedule a special meeting of the committee of the Board in a location in San Francisco other than City Hall. Notice of special committee meetings being convened outside of City Hall shall be published and posted in City Hall at least 15 days in advance of such special meetings.

#### **SEC. 2.104. QUORUM.**

The presence of a majority of the members of the Board of Supervisors at a regular or special meeting shall constitute a quorum for the transaction of business. In the absence of a quorum, a smaller number of members may compel the attendance of absent members in the manner and under the penalties established by the Board of Supervisors.

The Board of Supervisors shall act by a majority, two-thirds, three-fourths, or other vote of all members of the Board. Each member present at a regular or special meeting shall vote "yes" or "no" when a

question is put, unless excused from voting by a motion adopted by a majority of the members present.

#### **SEC. 2.105. ORDINANCES AND RESOLUTIONS.**

The Board of Supervisors shall meet and transact its business according to rules which it shall adopt.

The Board of Supervisors shall act only by written ordinance or resolution, except that it may act by motion on matters over which the Board of Supervisors has exclusive jurisdiction. All legislative acts shall be by ordinance. An ordinance or resolution may be introduced before the Board of Supervisors by a member of the Board, a committee of the Board or the Mayor, and shall be referred to and reported upon by an appropriate committee of the Board. An ordinance or resolution may be prepared in committee and reported out to the full Board for action, consistent with the public notice laws of the City. Except as otherwise provided in this Charter, passage of an ordinance or a resolution shall require the affirmative vote of a majority of the members of the Board.

An ordinance shall deal with only one subject matter, except that appropriations ordinances may cover appropriations with respect to any number of subjects. The title of each ordinance shall clearly reflect the content of the ordinance.

Except as otherwise provided in Section 2.107, passage of an ordinance shall require two readings at separate meetings of the Board of Supervisors, which shall be held at least five days apart. If an ordinance is amended at its second reading, the ordinance shall require a further reading prior to final passage. Resolutions shall require only one reading and may be adopted upon introduction without reference to committee by unanimous affirmative vote of the members of the Board of Supervisors who are present, but in no event less than a quorum.

All ordinances shall take effect no sooner than 30 days following the date of passage except for ordinances not subject to referendum and those authorizing bonded indebtedness and lease financings, which shall take effect immediately. Ordinances granting franchises shall take effect no sooner than 60 days after passage. No ordinance granting a franchise may be passed within 90 days of its introduction.



Resolutions may take effect immediately upon passage, or at such other time as shall be specified in the resolutions.

#### **SEC. 2.106. VETO OVERRIDE.**

The Board of Supervisors may enact an ordinance or resolution which has been vetoed by the Mayor pursuant to Section 3.103 if, within 30 days after such veto, not less than two-thirds of the Board of Supervisors shall vote in favor of such measure, except as provided in Section 9.104. If a larger vote is required for the adoption of the measure by provisions of this Charter, such larger vote shall be required to overcome the veto of the Mayor.

#### **SEC. 2.107. EMERGENCY ORDINANCES.**

An emergency ordinance may be passed in cases of public emergency affecting life, health, property, or for the uninterrupted operation of any City or County department or office required to comply with time limitations as established by law. Emergency ordinances shall require only one reading, and the affirmative vote of two-thirds of the Board of Supervisors shall be required for the passage of an emergency ordinance.

The form and manner of introduction of an emergency ordinance shall be as required for ordinances generally. In addition, an emergency ordinance shall contain:

*[Section 2.107. continues on page 9.]*

*[Section 2.107. continues on page 9.]*

1. A declaration setting forth the existence of the emergency;
2. A clear and concise description thereof; and
3. An explanation of how the measures in the ordinance will address the emergency.

An emergency ordinance shall be effective upon passage and shall automatically terminate on the 61st day following passage. An emergency ordinance may be reenacted upon the same terms and conditions applicable to its initial enactment. Any appropriation contained in an emergency ordinance shall be deemed to be an amendment to the final appropriations ordinance.

An emergency ordinance may suspend specific sections of this Charter, but may not: levy taxes; grant, renew or extend a franchise; regulate the rate charged by any public utility for its services; set salaries; issue bonds; or buy, sell or lease land.

#### **SEC. 2.108. PUBLIC'S RIGHT TO KNOW.**

The Board of Supervisors shall adopt and maintain a Sunshine Ordinance to liberally provide for the public's access to their government meetings, documents and records.

The Clerk of the Board of Supervisors shall keep a permanent public record of the proceedings of the Board showing all action considered and taken, the text of ordinances and resolutions voted upon and the vote of each member of the Board regarding any matter before the Board. The Clerk of the Board shall cause the text of all ordinances or resolutions passed by the Board to be readily available to the public.

A written calendar of the business scheduled for each meeting of the Board of Supervisors or any standing or special committee comprised of Board members and established by the Board shall be prepared and available to the public before each meeting. Summaries of board and committee calendar items of general public interest, as determined by the Clerk of the Board, and a statement of where and when copies of proposed ordinances and resolutions may be obtained, shall be published commencing at least 36 hours before the commencement time of each regular meeting and at least 18 hours before the commencement time of each special meeting.

Except as otherwise provided in this Charter, or by ordinance, notice of the title or the purport and subject matter of each proposed ordinance which is

introduced and referred to committee shall be published within five days after its presentation to the board and a copy of such proposed ordinance shall be kept available for inspection in the office of the Clerk of the Board. Each ordinance required to be included in the municipal code shall be printed promptly after final passage, and copies shall be made available to the public.

All ordinances, after final passage or upon their becoming effective shall be certified by the Clerk of the Board and recorded in a book kept for that purpose, and resolutions adopted shall be certified and recorded in a like manner. Notice that an ordinance has been passed for second reading, that an ordinance has been finally passed, and that a resolution has been adopted, together with a statement of where copies may be obtained, shall be published once within five days of such passage for second reading, final passage, or adoption.

#### **SEC. 2.109. RATES, FEES AND SIMILAR CHARGES.**

Within 30 days of submission by the Mayor, the Board of Supervisors shall approve by ordinance or reject any rate, fee or similar charge to be imposed by any department, official, board or commission, except those rates, fees and similar charges established by the Port or Airport Commissions, or under the Refuse Collection and Disposal Ordinance of November 8, 1932, as amended.

#### **SEC. 2.111. [REPEALED]**

#### **SEC. 2.112. FIDELITY BONDS.**

The Board of Supervisors shall determine which officials of the City and County shall be required to post fidelity bonds and the respective amounts of any such bonds. An annual review of bonding requirements shall be conducted by the Board of Supervisors.

#### **SEC. 2.113. LEGISLATIVE INITIATIVE.**

The Board of Supervisors, or four or more members, may submit to the voters declarations of policy, and any matter which the Board of Supervisors is empowered to pass.

Upon approval by the voters, the Board of Supervisors shall within 90 days of such approval take such actions within their powers as shall be necessary to

carry such declarations of policy into effect. A special municipal election shall not be called with respect to a declaration of policy.

#### **SEC. 2.114. NON-INTERFERENCE IN ADMINISTRATION.**

Except for the purpose of inquiry, the Board of Supervisors shall deal with the administrative service for which the City Administrator is responsible solely through such officer, and for administrative or other functions for which elective officials or boards or commissions are responsible solely through the elective official, the board or commission or the chief executive officer of such board or commission concerned, or their designees.

Neither the Board of Supervisors, its committees, nor any of its members, shall have any power or authority, nor shall they dictate, suggest or interfere with respect to any appointment, promotion, compensation, disciplinary action, contract or requisition for purchase or other administrative actions or recommendations of the City Administrator or of department heads under the City Administrator or under the respective boards and commissions. The Board of Supervisors shall deal with administrative matters only in the manner provided by this Charter, and any dictation, suggestion or interference herein prohibited on the part of any Supervisor shall constitute official misconduct; provided, however, that nothing herein contained shall restrict the power of hearing and inquiry as provided in this Charter.

Notwithstanding any other provisions of this section, it shall not constitute prohibited interference for a member of the Board of Supervisors to testify regarding administrative matters other than specific contract and personnel decisions at a public meeting of a City board, commission, task force or other appointive body, or for the Board of Supervisors to adopt legislation regarding administrative matters other than specific contract and personnel decisions.

Violation of this section shall constitute official misconduct.

#### **SEC. 2.115. FINANCIAL AUDIT.**

The Board of Supervisors shall select a firm or firms of independent accountants to audit and report upon the annual financial statements of the City and County.

#### **SEC. 2.116. PRESIDENT OF THE BOARD OF SUPERVISORS.**

At its regular meeting on the eighth day of January in odd-numbered years, the Board of Supervisors shall by majority vote elect one of its members as President for a two-year term. If a vacancy in the office of President of the Board of Supervisors shall occur prior to the end of the term, the Board of Supervisors shall by majority vote elect one of its members to fill the unexpired portion of the term. The President shall preside at all meetings, appoint all standing and special committees, assign legislation to committees, and have such other powers and duties as may be assigned by the Board of Supervisors. (Amended November 1996)

#### **SEC. 2.117. OFFICES OF THE BOARD OF SUPERVISORS.**

Each member of the Board of Supervisors shall have two staff members pursuant to Section 10.104. The Board of Supervisors shall appoint a Clerk of the Board. The Clerk of the Board shall have charge of the office and records of the Board and its committees and its classified staff. The Clerk shall keep a public record of the proceedings of the board as provided by Section 2.108 of this Charter and shall keep properly indexed files of all ordinances and resolutions. The Clerk shall be responsible for the publication, as required by law, of ordinances, resolutions and other matters acted on by the Board for which publication is specified. The Clerk shall have such other duties and responsibilities as the Board of Supervisors may prescribe.

The Board of Supervisors shall appoint and may remove a Budget Analyst and such appointment shall be made solely on the basis of qualifications by education, training and experience for the position to be filled. The Budget Analyst shall be responsible for such duties as the Board of Supervisors shall prescribe.

### ARTICLE III: EXECUTIVE BRANCH—OFFICE OF MAYOR

- Sec. 3.100. Powers and Responsibilities.
- Sec. 3.101. Term of Office.
- Sec. 3.102. Absence from State or Temporary Disability.
- Sec. 3.103. Veto Power.
- Sec. 3.104. City Administrator.
- Sec. 3.105. Controller; City Services Auditor.

#### SEC. 3.100. POWERS AND RESPONSIBILITIES.

The Mayor shall be the chief executive officer and the official representative of the City and County, and shall serve full time in that capacity. The Mayor shall devote his or her entire time and attention to the duties of the office, and shall not devote time or attention to any other occupation or business activity. The Mayor shall enforce all laws relating to the City and County, and accept service of process on its behalf.

The Mayor shall have responsibility for:

1. General administration and oversight of all departments and governmental units in the executive branch of the City and County;
2. Coordination of all intergovernmental activities of the City and County;
3. Receipt and examination of complaints relating to the administration of the affairs of the City and County, and timely delivery of notice to the complainant of findings and actions taken;
4. Assurance that appointees to various governmental positions with the City and County are qualified and are as representative of the communities of interest and diverse population of the City and County as is reasonably practicable, and are representative of both sexes;
5. Submission of ordinances and resolutions by the executive branch for consideration by the Board of Supervisors;
6. Presentation before the Board of Supervisors of a policies and priorities statement setting forth the

Mayor's policies and budget priorities for the City and County for the ensuing fiscal year;

7. Introduction before the Board of Supervisors of the annual proposed budget or multi-year budget which shall be initiated and prepared by the Mayor. The Mayor shall seek comments and recommendations on the proposed budget from the various commissions, officers and departments; and

8. Preparation of and introduction to the Board of Supervisors of supplemental appropriations.

The Mayor shall have the power to:

9. Speak and be heard with respect to any matter at any meeting of the Board of Supervisors or any of its committees, and shall have a seat but no vote on all boards and commissions appointed by the Mayor;

10. As provided in Section 3.103 of this Charter, veto any ordinance or resolution passed by the Board of Supervisors;

11. Subject to the fiscal provisions of this Charter and budgetary approval by the Board of Supervisors, appoint such staff as may be needed to perform the duties and carry out the responsibilities of the Mayor's office, provided that no member of the staff shall receive a salary in excess of seventy percent of that paid the Mayor. For purposes of this provision, staff does not include the City Administrator, department heads or employees of departments placed under his or her direction by Section 3.104. Notwithstanding any other provisions or limitations of this Charter to the contrary, the Mayor may not designate nor may the City and County employ on the Mayor's behalf any person to act as deputy to the Mayor or any similar employment classification, regardless of title, whose responsibilities include but are not necessarily limited to supervision of the administration of any department for which the City Administrator, an elected official other than the Mayor or an appointed board or commission is assigned responsibility elsewhere in this Charter;



12. Designate a member of the Board of Supervisors to act as Mayor in the Mayor's absence from the state or during a period of temporary disability;

13. In the case of an emergency threatening the lives, property or welfare of the City and County or its citizens, the Mayor may direct the personnel and resources of any department, command the aid of other persons, and do whatever else the Mayor may deem necessary to meet the emergency;

In meeting an emergency, the Mayor shall act only with the concurrence of the Board of Supervisors, or a majority of its members immediately available if the emergency causes any member of the Board to be absent. The Mayor shall seek the Board's concurrence as soon as is reasonably possible in both the declaration of an emergency and in the action taken to meet the emergency. Normal notice, posting and agenda requirements of the Board of Supervisors shall not be applicable to the Board's actions pursuant to these provisions;

14. Make an appointment to fill any vacancy in an elective office of the City and County until a successor shall have been elected;

15. Submit to the voters a declaration of policy or ordinance on any matter on which the Board of Supervisors is empowered to pass;

16. Have and exercise such other powers as are provided by this Charter or by law for the chief executive officer of a City and County;

17. Unless otherwise specifically provided, make appointments to boards and commissions which shall be effective immediately and remain so, unless rejected by a two-thirds vote of the Board of Supervisors within 30 days following transmittal of Notice of Appointment. The Notice of Appointment shall include the appointee's qualifications to serve and a statement how the appointment represents the communities of interest, neighborhoods and diverse populations of the City and County;

18. Appoint department heads subject to the provisions of this Charter; and

19. Prepare and submit schedule of rates, fees and other similar charges to the Board of Supervisors.

#### **SEC. 3.101. TERM OF OFFICE.**

The Mayor shall serve a four-year term. No person shall serve as mayor for more than two successive terms. A part of a term that exceeds two years shall count as a full term. There shall be no limit on the non- successive terms that a person may serve.

#### **SEC. 3.102. ABSENCE FROM STATE OR TEMPORARY DISABILITY.**

If the Mayor is absent from the state or temporarily disabled without designating an Acting Mayor, the President of the Board of Supervisors shall act as Mayor until such time as the Mayor shall return to office.

In case of a disaster in which neither the Mayor nor the President of the Board of Supervisors is able to serve as Mayor, the order of succession shall be as designated by ordinance. (Amended November 2001)

#### **SEC. 3.103. VETO POWER.**

Any ordinance or resolution passed by the Board of Supervisors shall be promptly delivered to the Mayor for consideration. If the Mayor approves the ordinance or resolution, the Mayor shall sign it and it shall become effective as provided in Section 2.105 of this Charter. If the Mayor disapproves the ordinance or resolution, the Mayor shall promptly return it to the Board of Supervisors without the Mayor's signature, accompanied by a statement indicating the reasons for disapproval and any recommendations which the Mayor may have. Any ordinance or resolution so disapproved by the Mayor shall become effective only if, subsequent to its return, it shall be passed by a vote of the Board of Supervisors required by Section 2.106 of this Charter. Any ordinance or resolution shall become effective, with or without the Mayor's signature, unless it is disapproved by the Mayor and returned to the Board of Supervisors not more than ten days after the date the ordinance or resolution was delivered to the Mayor's Office for consideration.



**SEC. 3.104. CITY ADMINISTRATOR.**

The Mayor shall appoint or reappoint a City Administrator, subject to confirmation by the Board of Supervisors. The appointee shall have at least ten years' governmental management or finance experience with at least five years at the city, county, or city and county level. The City Administrator shall have a term of office of five years, and may be removed by the Mayor subject to approval by the Board of Supervisors.

The City Administrator shall have responsibility for:

1. Administrative services within the executive branch, as assigned by the Mayor or by ordinance;
2. Administering policies and procedures regarding bonded or other long-term indebtedness, procurement, contracts and building and occupancy permits, and for assuring that all contracts and permits are issued in a fair and impartial manner and that any inspections involved with the issuance of permits shall be carried out in a like manner;
3. Coordinating all capital improvement and construction projects except projects solely under the Airport, Port, Public Utilities and Public Transportation Commissions;
4. Preparing and recommending bond measures for consideration by the Mayor and Board of Supervisors; and
5. Administering, budgeting and control of publicity and advertising expenditures.

The City Administrator shall have power to:

6. With the concurrence of the Mayor, appoint and remove the directors of the Departments of Administrative Services, Solid Waste, Public Guardian/Administrator, and Public Works, and such other department heads which are placed under his or her direction;
7. Propose rules governing procurement and contracts to the Board of Supervisors for consideration;
8. Award contracts without interference from the Mayor or Board of Supervisors; and
9. Coordinate the issuance of bonds and notes for capital improvements, equipment and cash flow borrowings, except for projects solely under the Airport, Port, Public Utilities and Public Transportation Commissions.

In those instances where contract awards are not subject to Board of Supervisors' review, the City Administrator shall award contracts in full compliance with applicable laws and this Charter. The City Administrator's decision in such cases shall be final.

**SEC. 3.105. CONTROLLER; CITY SERVICES AUDITOR.**

The Mayor shall appoint or reappoint a Controller for a ten-year term, subject to confirmation by the Board of Supervisors. The Controller may only be removed by the Mayor for cause, with the concurrence of the Board of Supervisors by a two-thirds vote.

The Controller shall be responsible for the timely accounting, disbursement or other disposition of monies of the City and County in accordance with sound financial practices applicable to municipalities and counties. The Controller shall have the power and duties of a county auditor, except as otherwise provided in this Charter. The Controller shall have authority to audit the accounts and operations of all boards, commissions, officers and departments to evaluate their effectiveness and efficiency. The Controller shall have access to, and authority to, examine all documents, records, books and other property of any board, commission, officer or department.

The Controller shall also serve as City Services Auditor for the City and County. As City Services Auditor, the Controller shall be responsible for monitoring the level and effectiveness of services rendered by the City to its residents, as set forth in Appendix F to this Charter.

Should the Controller determine at any time during the fiscal year that the revenues of the General Fund, or any special, sequestered or other fund are insufficient or appear to be insufficient to support the remaining anticipated expenditure from that fund for the fiscal year for any department, function or program, the Controller shall reduce or reserve all or a portion of the expenditure appropriation until such time as the Controller determines that the anticipated revenues for the remainder of that fiscal year are sufficient to support the level of expenditure anticipated for the remainder of the fiscal year. Whenever the Controller makes a reduction or

reservation, the Controller shall so inform the Mayor and Board of Supervisors within 24 hours.

The Controller shall exercise general supervision over the accounts of all officers, commissions, boards and employees of the City and County charged in any manner with the receipt, collection or disbursement of City and County funds or other funds, in their capacity as City and County officials or employees. The Controller shall establish accounting records, procedures and internal controls with respect to all financial transactions of the City and County. Such records, procedures and controls shall permit the financial statements of the City and County to be prepared in conformity with generally accepted accounting principles applicable to municipalities and counties.

The Controller shall within 150 days of the end of each fiscal year prepare an annual report of the financial condition of the City and County. Such annual report shall be prepared in accordance with generally accepted accounting principles. The annual report shall contain such information and disclosures as shall be necessary to present to the public a full and understandable report of all City and County financial activity.

The Controller shall prepare an impartial financial analysis of each City and County ballot measure which shall include the amount of any increase or decrease in the cost of government of the City and County and its effect upon the cost of government. Such analysis shall be issued in sufficient time to permit inclusion in the voters' pamphlet.

The Controller shall issue from time to time such periodic or special financial reports as may be requested by the Mayor or Board of Supervisors.

All disbursements of funds in the custody of the Treasurer must be authorized by the Controller. No officer or employee shall bind the City and County to expend money unless there is a written contract or other instrument and unless the Controller shall certify that sufficient unencumbered balances are available in the proper fund to meet the payments under such contract or other obligation as these become due. (Amended November 2003)

## ARTICLE IV: EXECUTIVE BRANCH—BOARDS, COMMISSIONS AND DEPARTMENTS

- Sec. 4.100. General.
- Sec. 4.101. Boards and Commissions—Composition.
- Sec. 4.102. Boards and Commissions—Powers and Duties.
- Sec. 4.103. Boards and Commissions—Annual Report.
- Sec. 4.104. Boards and Commissions—Rules and Regulations.
- Sec. 4.105. Planning Commission.
- Sec. 4.106. Board of Appeals.
- Sec. 4.107. Human Rights Commission.
- Sec. 4.108. Fire Commission.
- Sec. 4.109. Police Commission.
- Sec. 4.110. Health Commission.
- Sec. 4.111. Human Services Commission.
- Sec. 4.112. Public Utilities Commission.
- Sec. 4.113. Recreation and Park Commission.
- Sec. 4.114. Port Commission.
- Sec. 4.115. Airport Commission.
- Sec. 4.116. Parking and Traffic Commission.
- Sec. 4.117. Entertainment Commission.
- Sec. 4.118. Commission on the Environment.
- Sec. 4.119. Commission on the Status of Women.
- Sec. 4.120. Commission on Aging.
- Sec. 4.121. Building Inspection Commission.
- Sec. 4.122. Youth Commission.
- Sec. 4.123. Youth Commission Membership; Appointment; Terms; Meetings; Compensation; Director.
- Sec. 4.124. Youth Commission—Purpose and Duties.
- Sec. 4.125. Jurisdiction.
- Sec. 4.126. Departments—General Provisions.
- Sec. 4.127. Police Department.
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- Sec. 4.129. Department of Administrative Services.
- Sec. 4.130. Department of Public Works.
- Sec. 4.131. County Clerk.

- Sec. 4.132. Executive Branch Reorganization.
- Sec. 4.133. Taxi Commission.
- Sec. 4.134. Small Business Commission.

### SEC. 4.100. GENERAL.

In addition to the office of the Mayor, the executive branch of the City and County shall be composed of departments, appointive boards, commissions and other units of government. To the extent law permits, each appointive board, commission, or other unit of government of the City and County established by state or federal law shall be subject to the provisions of this Article and this Charter.

### SEC. 4.101. BOARDS AND COMMISSIONS—COMPOSITION.

Unless otherwise provided in this Charter, the composition of each appointive board, commission or advisory body of any kind established by this Charter or legislative act of the United States of America, the State of California or the Board of Supervisors shall:

1. Be broadly representative of the communities of interest, neighborhoods, and the diversity in ethnicity, race, age, and sexual orientation of the City and County and have representation of both sexes; and
2. Consist of electors of the City and County at all times during the term of their respective offices, unless otherwise specifically provided in this Charter; or in the case of boards, commissions or advisory bodies established by legislative act the position is (a) designated by ordinance for a person under legal voting age, or (b) unless specifically exempt from the provisions, or waived by the appointing officer or entity upon a finding that an elector with specific experience, skills or qualifications willing to serve could not be located within the City and County.

Vacancies on appointive boards, commissions or other units of government shall be filled for the balance of the unexpired term in the manner prescribed by this Charter or ordinance for initial appointments.

Terms of office shall continue as they existed on the effective date of this Charter.

#### **SEC. 4.102. BOARDS AND COMMISSIONS— POWERS AND DUTIES.**

Unless otherwise provided in this Charter, each appointive board, commission or other unit of government of the executive branch of the City and County shall:

1. Formulate, evaluate and approve goals, objectives, plans and programs and set policies consistent with the overall objectives of the City and County, as established by the Mayor and the Board of Supervisors through the adoption of City legislation;

2. Develop and keep current an Annual Statement of Purpose outlining its areas of jurisdiction, authorities, purpose and goals, subject to review and approval by the Mayor and the Board of Supervisors;

3. After public hearing, approve applicable departmental budgets or any budget modifications or fund transfers requiring the approval of the Board of Supervisors, subject to the Mayor's final authority to initiate, prepare and submit the annual proposed budget on behalf of the executive branch and the Board of Supervisors' authority under Section 9.103;

4. Recommend to the Mayor for submission to the Board of Supervisors rates, fees and similar charges with respect to appropriate items coming within their respective jurisdictions;

5. Unless otherwise specifically provided, submit to the Mayor at least three qualified applicants, and if rejected, to make additional nominations in the same manner, for the position of department head, subject to appointment by the Mayor;

6. Remove a department head; the Mayor may recommend removal of a department head to the commission, and it shall be the commission's duty to act on the Mayor's recommendation by removing or retaining the department head within 30 days; failure to act on the Mayor's recommendation shall constitute official misconduct;

7. Conduct investigations into any aspect of governmental operations within its jurisdiction through the power of inquiry, and make recommendations to the Mayor or the Board of Supervisors;

8. Exercise such other powers and duties as shall be prescribed by the Board of Supervisors; and

9. Appoint an executive secretary to manage the affairs and operations of the board or commission.

In furtherance of the discharge of its responsibilities, an appointive board, commission or other unit of government may:

10. Hold hearings and take testimony; and

11. Retain temporary counsel for specific purposes, subject to the consent of the Mayor and the City Attorney.

Each board or commission, relative to the affairs of its own department, shall deal with administrative matters solely through the department head or his or her designees, and any dictation, suggestion or interference herein prohibited on the part of any member of a board or commission shall constitute official misconduct; provided, however, that nothing herein contained shall restrict the board or commission's powers of hearing and inquiry as provided in this Charter.

#### **SEC. 4.103. BOARDS AND COMMISSIONS— ANNUAL REPORT.**

As of the operative date of this Charter and until this requirement is changed by the Board of Supervisors, each board and commission of the City and County shall be required by ordinance to prepare an annual report describing its activities, and shall file such report with the Mayor and the Clerk of the Board of Supervisors. The Annual Report can be included in the Annual Statement of Purpose as provided for in Section 4.102(2).

#### **SEC. 4.104. BOARDS AND COMMISSIONS— RULES AND REGULATIONS.**

Unless otherwise provided in this Charter, each appointive board, commission or other unit of government of the executive branch of the City and County shall:

1. Adopt rules and regulations consistent with this Charter and ordinances of the City and County. No rule or regulation shall be adopted, amended or repealed, without a public hearing. At least ten days' public notice shall be given for such public hearing. All such rules and regulations shall be filed with the Clerk of the Board of Supervisors.

2. Hold meetings open to the public and encourage the participation of interested persons. Except for the actions taken at closed sessions, any action taken at other than a public meeting shall be



void. Closed sessions may be held in accordance with applicable state statutes and ordinances of the Board of Supervisors.

3. Keep a record of the proceedings of each regular or special meeting. Such record shall indicate how each member voted on each question. These records, except as may be limited by state law or ordinance, shall be available for public inspection.

The presence of a majority of the members of an appointive board, commission or other unit of government shall constitute a quorum for the transaction of business by such body. Unless otherwise required by this Charter, the affirmative vote of a majority of the members shall be required for the approval of any matter, except that the rules and regulations of the body may provide that, with respect to matters of procedure the body may act by the affirmative vote of a majority of the members present, so long as the members present constitute a quorum. All appointive boards, commissions or other units of government shall act by a majority, two-thirds, three-fourths or other vote of all members. Each member present at a regular or special meeting shall vote "yes" or "no" when a question is put, unless excused from voting by a motion adopted by a majority of the members present.

#### **SEC. 4.105. PLANNING COMMISSION.**

**GENERAL.** The Planning Commission shall consist of seven members nominated and appointed pursuant to this section. Four of the members shall be nominated by the Mayor, and three of the members shall be nominated by the President of the Board of Supervisors. Charter Section 4.101 shall apply to these appointments, with particular emphasis on the geographic diversity of City neighborhoods. Vacancies shall be filled by the appointing officer.

Each nomination of the Mayor and the President of the Board of Supervisors is subject to approval by the Board of Supervisors, and shall be the subject of a public hearing and vote within 60 days. If the Board fails to act on the nomination within 60 days of the date the nomination is transmitted to the Clerk of the Board of Supervisors, the nominee shall be deemed approved. The appointment shall become effective on the date the Board adopts a motion approving the

nomination or after 60 days of the date the nomination is transmitted to the Clerk of the Board of Supervisors.

Members may be removed by the appointing officer only pursuant to Section 15.105.

In order to stagger the terms, three members shall initially serve two-year terms, and four members shall initially serve four-year terms. The initial two and four-year terms of office shall be instituted as follows:

1. The respective terms of office of members of the Planning Commission who hold office on the first day of July, 2002, shall expire at 12 o'clock noon on that date, and the four members appointed by the Mayor and the three members appointed by the President of the Board of Supervisors shall succeed to said offices at that time.

2. The clerk of the Board of Supervisors shall determine by lot which two of the four Mayoral appointees shall serve an initial two-year term, and which one of the three appointees of the President of the Board of Supervisors shall serve an initial two-year term. The remaining appointees shall serve four-year terms. All subsequent terms shall be four years.

The Commission shall provide the Mayor with at least three qualified candidates for Director of Planning, selected on the basis of administrative and technical qualifications, with special regard for experience, training and knowledge in the field of city planning.

The Commission may contract with consultants for such services as it may require subject to the fiscal provisions of this Charter.

**GENERAL PLAN.** The Commission shall periodically recommend to the Board of Supervisors for approval or rejection proposed amendments to the General Plan. If the Board of Supervisors fails to act within 90 days of receipt, the proposed General Plan or amendments shall be deemed approved. The General Plan which will initially consist of the Master Plan in effect immediately prior to the effective date of this Charter shall consist of goals, policies and programs for the future physical development of the City and County that take into consideration social, economic and environmental factors. In developing their recommendations, the Commission shall consult with commissions and elected officials, and shall hold

public hearings as part of a comprehensive planning process. The Planning Department, in consultation with other departments and the City Administrator, shall periodically prepare special area, neighborhood and other plans designed to carry out the General Plan, and periodically prepare implementation programs and schedules which link the General Plan to the allocation of local, state and federal resources. The Planning Department may make such other reports and recommendations to the Mayor, Board of Supervisors and other offices and governmental units as it may deem necessary to secure understanding and a systematic effectuation of the General Plan.

In preparing any plans, the Planning Department may include plans for systems and areas within the Bay Region which have a planning relationship with the City and County.

**REFERRAL OF CERTAIN MATTERS.** The following matters shall, prior to passage by the Board of Supervisors, be submitted for written report by the Planning Department regarding conformity with the General Plan:

1. Proposed ordinances and resolutions concerning the acquisition or vacation of property by, or a change in the use or title of property owned by, the City and County;
2. Subdivisions of land within the City and County;
3. Projects for the construction or improvement of public buildings or structures within the City and County;
4. Project plans for public housing, or publicly assisted private housing in the City and County;
5. Redevelopment project plans within the City and County; and
6. Such other matters as may be prescribed by ordinance.

The Commission shall disapprove any proposed action referred to it upon a finding that such action does not conform to the General Plan. Such a finding may be reversed by a vote of two-thirds of the Board of Supervisors.

All such reports and recommendations shall be issued in a manner and within a time period to be determined by ordinance.

**PERMITS AND LICENSES.** All permits and licenses dependent on, or affected by, the City Planning Code administered by the Planning Department shall be approved by the Commission prior to issuance. The Commission may delegate this approval function to the Planning Department.

**ENFORCEMENT.** The Planning Department shall administer and enforce the City Planning Code.

**ZONING AMENDMENTS.** The Commission may propose for consideration by the Board of Supervisors ordinances regulating or controlling the height, area, bulk, set-back, location, use or related aspects of any building, structure or land. An ordinance proposed by the Board of Supervisors concerning zoning shall be reviewed by the Commission. Applications for the reclassification of property may be made by interested parties and must be reviewed by the Commission.

Notwithstanding the Commission's disapproval of a proposal from the Board of Supervisors or the application of interested parties, the Board of Supervisors may adopt the proposed ordinance; however, in the case of any proposal made by the application of interested parties, any such adoption shall be by a vote of not less than two-thirds of the Board of Supervisors.

No application of interested parties proposing the same or substantially the same ordinance as that disapproved by the Commission or by the Board of Supervisors shall be resubmitted to or reconsidered by the Commission within a period of one year from the effective date of final action upon the earlier application.

**ZONING ADMINISTRATOR.** The director of planning shall appoint a Zoning Administrator from a list of qualified applicants provided pursuant to the Civil Service provisions of the Charter. The Zoning Administrator shall be responsible for the determination of all zoning variances. The administrator shall have the power to grant only those variances that are consistent with the general purpose and the intent of the zoning ordinance, and in accordance with the general and specific rules of the zoning ordinance, subject to such conditions and safeguards as the Zoning Administrator may impose. The power to grant variances shall be applied only when the plain and literal interpretation and enforcement of the



zoning ordinance would result in practical difficulties, unnecessary hardships or where the results would be inconsistent with the general purpose of the zoning ordinance. Decisions of the Zoning Administrator regarding zoning variances may be appealed to the Board of Appeals.

Before any such variance may be granted, there shall appear, and the Zoning Administrator shall specify in his or her findings, the facts in each case which shall establish:

(a) That there are exceptional or extraordinary circumstances or conditions applying to the property involved or to the intended use of the property that do not apply generally to the property or class of uses in the same district or zone;

(b) That owing to such exceptional or extraordinary circumstances the literal enforcement of the zoning ordinance would result in practical difficulty or unnecessary hardship not created by or attributable to the applicant or the owner of the property;

(c) That such variance is necessary for the preservation and enjoyment of a substantial property right of the applicant, possessed by other property in the same zone and vicinity;

(d) That the granting of the variance will not be materially detrimental to the public welfare or injurious to the property or improvements in such zone or district in which the property is located; and

(e) That the granting of such variance will be in harmony with the general purpose and intent of the zoning ordinance and will not adversely affect the general plan.

The determination of the Zoning Administrator shall be final except that appeals therefrom may be taken, as hereinafter provided, to the Board of Appeals, exclusively and notwithstanding any other provisions of this Charter, by any person aggrieved or by any office, agency, or department of the City and County. An appeal from a determination of the Zoning Administrator shall be filed with the Board of Appeals within ten days from the date of such determination. Upon making a ruling or determination upon any matter under his or her jurisdiction, the Zoning Administrator shall thereupon furnish a copy thereof to the applicant and to the Director of Planning. No

variance granted by the Zoning Administrator shall become effective until ten days thereafter. An appeal shall stay all proceedings in furtherance of the action appealed from.

**CONDITIONAL USE.** The Commission shall have the power to hear and decide conditional use applications. An appeal may be taken to the Board of Supervisors from a decision of the Commission to grant or deny a conditional use application. The Board of Supervisors may disapprove the decision of the Commission by a vote of not less than two-thirds of the members of the Board. (Amended March 2002)

#### **SEC. 4.106. BOARD OF APPEALS.**

(a) The Board of Appeals shall consist of five members nominated and appointed pursuant to this section. Three of the members shall be nominated by the Mayor, and two of the members shall be appointed by the President of the Board of Supervisors. Charter Section 4.101 shall apply to these appointments. Vacancies shall be filled by the appointing officer.

Each nomination of the Mayor and the President of the Board of Supervisors is subject to approval by the Board of Supervisors, and shall be the subject of a public hearing and vote within 60 days. If the Board fails to act on the nomination within 60 days of the date the nomination is transmitted to the Clerk of the Board of Supervisors, the nominee shall be deemed approved. The appointment shall become effective on the date the Board adopts a motion approving the nomination or after 60 days of the date the nomination is transmitted to the Clerk of the Board of Supervisors.

Members may be removed by the appointing officer only pursuant to Section 15.105.

In order to stagger the terms, three members shall initially serve two-year terms, and two members shall initially serve four-year terms. The initial two and four-year terms of office shall be instituted as follows:

1. The respective terms of office of members of the Board of Appeals who hold office on the first day of July, 2002, shall expire at 12 o'clock noon on that date, and the three members appointed by the Mayor and the two members appointed by the President of the Board of Supervisors shall succeed to said offices at that time.

2. The clerk of the Board of Supervisors shall determine by lot which two of the three Mayoral appointees shall serve an initial two-year term, and which one of the two appointees of the President of the Board of Supervisors shall serve an initial two-year term. The remaining appointees shall serve four-year terms. All subsequent terms shall be four years.

The Board shall appoint and may remove an executive secretary, who shall serve as department head.

(b) The Board shall hear and determine appeals with respect to any person who has been denied a permit or license, or whose permit or license has been suspended, revoked or withdrawn, or who believes that his or her interest or the public interest will be adversely affected by the grant, denial, suspension or revocation of a license or permit, except for a permit or license under the jurisdiction of the Recreation and Park Commission or Department, or the Port Commission, or a building or demolition permit for a project that has received a permit or license pursuant to a conditional use authorization.

(c) The Board of Appeals shall hear and determine appeals:

1. Where it is alleged there is error or abuse of discretion in any order, requirement, decision or determination made by the Zoning Administrator in the enforcement of the provisions of any ordinance adopted by the Board of Supervisors creating zoning districts or regulating the use of property in the city and county; or

2. From the rulings, decisions and determinations of the Zoning Administrator granting or denying applications for variances from any rule, regulation, restriction or requirement of the zoning or set-back ordinances, or any section thereof. Upon the hearing of such appeals, the Board may affirm, change, or modify the ruling, decision or determination appealed from, or, in lieu thereof, make such other additional determinations as it shall deem proper in the premises, subject to the same limitations as are placed upon the Zoning Administrator by this Charter or by ordinance.

(d) After a hearing and any necessary investigation, the Board may concur in the action of the department involved, or by the affirmative vote of four members (or if a vacancy exists, by a vote of three members) overrule the action of the Department.

Where the Board exercises its authority to modify or overrule the action of a department, the Board shall state in summary its reasons in writing. (Amended March 2002)

#### **SEC. 4.107. HUMAN RIGHTS COMMISSION.**

The Human Rights Commission shall consist of eleven members appointed by the Mayor, pursuant to Section 3.100, for four-year terms. Members may be removed by the Mayor.

The Commission shall:

1. Investigate complaints of unlawful discrimination against any person;

2. Ensure the civil rights of all persons;

3. Ensure that the affirmative action plans of each department of the City and County are current and are being properly implemented; and report on the implementation of such affirmative action plans to the Mayor and Board of Supervisors;

4. Promote understanding among the residents of the City and County and work cooperatively with governmental agencies, community group and others to eliminate discrimination and the results of past discrimination by furnishing information, guidance and technical assistance;

5. Study, investigate, mediate and make recommendations with respect to the solving of community-wide problems resulting in intergroup tensions and discrimination;

6. Implement the provisions of ordinances prohibiting discrimination in all contracts and subsequent subcontracts, franchises, leases, concessions or other agreements for or on behalf of the City and County; and

7. Issue such rules and regulations for the conduct of its business, and prepare such ordinances with respect to human rights for consideration by the Board of Supervisors as are necessary to carry out the purposes of this section.

In performing its duties, the Commission may hold hearings, issue subpoenas to require witnesses to appear and require the production of evidence, administer oaths, take testimony and issue appropriate orders and petitions for court orders in such manner as may be prescribed by law.

**SEC. 4.108. FIRE COMMISSION.**

The Fire Commission shall consist of five members appointed by the Mayor, pursuant to Section 3.100, for four-year terms. Members may be removed by the Mayor. In addition to any other powers set forth in this Charter, the Fire Commission is empowered to prescribe and enforce any reasonable rules and regulations that it deems necessary to provide for the efficiency of the Department, provided that the civil service and ethics provisions of this Charter shall control in the event of any conflict with rules adopted under this section. (Amended November 2003)

**SEC. 4.109. POLICE COMMISSION.**

The Police Commission shall consist of seven members appointed pursuant to this section. The Mayor shall nominate four members to the commission, at least one of whom shall be a retired judge or an attorney with trial experience. The Rules Committee of the Board of Supervisors, or any successor committee thereto, shall nominate three other members to the commission. Each nomination shall be subject to confirmation by the Board of Supervisors, and the Mayor's nominations shall be the subject of a public hearing and vote within 60 days. If the Board of Supervisors rejects the Mayor's nomination to fill the seat designated for a retired judge or attorney with trial experience, the Mayor shall nominate a different person with such qualifications. If the Board of Supervisors fails to act on a mayoral nomination within 60 days of the date the nomination is transmitted to the Clerk of the Board of Supervisors, the nominee shall be deemed confirmed. Appointments to fill a vacancy on the commission shall become operative on the date the Board of Supervisors adopts a motion confirming the nomination, or on the 61st day following the date a mayoral nomination is transmitted to the Clerk of the Board of Supervisors if the Board of Supervisors fails to vote on the nomination prior to such date. Confirmations of nominations to fill a vacancy that will be created upon the expiration of a sitting member's term shall become operative upon the expiration of the sitting member's term, or, if the Board of Supervisors fails to act on a mayoral

nomination to fill such anticipated vacancy, on the 61st day following the date the nomination was transmitted to the Clerk of the Board of Supervisors or on the expiration of the sitting member's term, whichever occurs later. The terms and tenures of all members sitting on the commission as of the effective date of the amendments to this section approved at the November 2003 election shall terminate at 12 noon on April 30, 2004. To stagger the terms of the seven members thereafter, of the first four members nominated by the Mayor, two members shall serve terms of two years and two members shall serve terms of four years, and of the three members nominated by the Rules Committee, one member shall serve a term of one year, one member shall serve a term of two years, and one member shall serve a term of three years. The Clerk of the Board of Supervisors shall designate such initial terms by lot. All subsequent appointments to the commission shall be for four-year terms.

The tenure of each member shall terminate upon the expiration of the member's term. The Mayor shall transmit a nomination or renomination to the Clerk of the Board of Supervisors no later than 60 days prior to the expiration of the term of a member nominated by the Mayor. For vacancies occurring for reasons other than the expiration of a member's term, within 60 days following the creation of such vacancy, the Mayor shall nominate a member to fill such vacancy if the vacancy is for a seat filled by nomination of the Mayor.

The District Attorney, Sheriff and Public Defender may recommend persons to the Mayor and Board of Supervisors for nomination or appointment to the Police Commission.

The Mayor, with the consent of the Board of Supervisors, may remove a member the Mayor has nominated. The Board of Supervisors may remove a member the Rules Committee has nominated.

Notwithstanding any other provision of the Charter, the Chief of Police may be removed by the Commission or the Mayor, acting jointly or separately of each other. In addition to any other powers set forth in this Charter, the Police Commission is empowered to prescribe and enforce any reasonable rules and regulations that it deems necessary to



provide for the efficiency of the Department, provided that the civil service and ethics provisions of this Charter shall control in the event of any conflict with rules adopted under this section. (Amended November 2003)

#### **SEC. 4.110. HEALTH COMMISSION.**

The Health Commission shall consist of seven members appointed by the Mayor, pursuant to Section 3.100, for four-year terms. The Commission shall have less than a majority of direct care providers. Members may be removed by the Mayor only pursuant to Section 15.105. The Commission shall control the property under its jurisdiction.

The Commission and the Department shall manage and control the City and County hospitals, emergency medical services, and in general provide for the preservation, promotion and protection of the physical and mental health of the inhabitants of the City and County, except where the Charter grants such authority to another officer or department. The Commission and the Department may also determine the nature and character of public nuisances and provide for their abatement.

#### **SEC. 4.111. HUMAN SERVICES COMMISSION.**

The Human Services Commission shall consist of five members appointed by the Mayor, pursuant to Section 3.100, for four-year terms. Members may be removed by the Mayor only pursuant to Section 15.105.

#### **SEC. 4.112. PUBLIC UTILITIES COMMISSION.**

The Public Utilities Commission shall consist of five members appointed by the Mayor, pursuant to Section 3.100, for four-year terms. Members may be removed by the Mayor only pursuant to Section 15.105.

The Commission shall have charge of the construction, management, supervision, maintenance, extension, operation, use and control of all water and energy supplies and utilities of the City as well as the real, personal and financial assets, which are under the Commission's jurisdiction on the operative date of this Charter, or assigned pursuant to Section 4.132.

#### **SEC. 4.113. RECREATION AND PARK COMMISSION.**

The Recreation and Park Commission shall consist of seven members appointed by the Mayor, pursuant to Section 3.100, for four-year terms. Members may be removed by the Mayor only pursuant to Section 15.105.

Pursuant to the policies and directives set by the Commission and under the direction and supervision of the General Manager, the Recreation and Park Department shall manage and direct all parks, playgrounds, recreation centers and all other recreation facilities, avenues and grounds under the Commission's control or placed under its jurisdiction thereafter, unless otherwise specifically provided in this Charter.

The Department shall promote and foster a program providing for organized public recreation of the highest standard.

The Department shall issue permits for the use of all property under the Commission's control, pursuant to the policies established by the Commission.

As directed by the Commission, the Department shall administer the Park, Recreation and Open Space Fund pursuant to Section 16.107 of this Charter.

The Department shall have the power to construct new parks, playgrounds, recreation centers, recreation facilities, squares and grounds, and to erect and maintain buildings and structures on parks,

playgrounds, square, avenues and grounds, except as follows:

1. No building or structure, except for nurseries, equipment storage facilities and comfort stations, shall be erected, enlarged or expanded in Golden Gate Park or Union Square Park unless such action has been approved by a vote of two-thirds of the Board of Supervisors;

2. No park land may be sold or leased for non-recreational purposes, nor shall any structure on park property be built, maintained or used for non-recreational purposes, unless approved by a vote of the electors. However, with permission of the Commission and approval by the Board of Supervisors, subsurface space under any public park, square or playground may be used for the operation of a public automobile parking station under the authority of the Department of Parking and Traffic, provided that the Commission determines that such a use would not be, in any material respect or degree, detrimental to the original purpose for which a park, square or playground was dedicated or in contravention of the conditions of any grant under which a park, square or playground might have been received. The revenues derived from any such use, less the expenses incurred by the Department of Parking and Traffic in operating these facilities, shall be credited to Recreation and Park Department funds.

3. The Commission shall have the power to lease or rent any stadium or recreation field under its jurisdiction for athletic contests, exhibitions and other special events and may permit the lessee to charge an admission fee. (Amended March 2000)

#### **SEC. 4.114. PORT COMMISSION.**

The Port Commission shall consist of five members who shall be appointed by the Mayor, subject to confirmation by a majority of the Board of Supervisors. Each of the members shall serve for a term of four years. They shall be subject to recall, suspension and removal in the same manner as an elected official.

The Commission shall have the composition and organization, and the powers, duties and responsibilities with respect to the Port that are set forth in the Burton Act, Statutes of 1968, Chapter 1333, as

amended, and in the Agreement Relating to the Transfer of the Port of San Francisco from the State of California to the City and County, executed on the 24th day of January 1969.

The Commission shall be subject to the provisions of Sections 4.101 through 4.103 of this Charter, so far as those powers and duties are not inconsistent with the Burton Act and the Transfer Agreement as they are referred to in the above paragraph.

#### **SEC. 4.115. AIRPORT COMMISSION.**

The Airport Commission shall consist of five members appointed by the Mayor, pursuant to Section 3.100, for four-year terms. Members may be removed by the Mayor only pursuant to Section 15.105.

The Commission shall provide the Mayor with at least three qualified candidates for Director of Airports, related on the basis of executive, administrative and technical qualifications.

The Commission shall have charge of the construction, management, supervision, maintenance, extension, operation, use and control of all property, as well as the real, personal and financial assets which are under the Commission's jurisdiction.

Subject to the approval, amendment or rejection of the Board of Supervisors of each issue, the Commission shall have exclusive authority to plan and issue revenue bonds for airport-related purposes.

#### **SEC. 4.116 PARKING AND TRAFFIC COMMISSION**

The Parking and Traffic Commission shall consist of five members appointed by the Mayor, pursuant to Section 3.100, for four-year terms. Members may be removed by the Mayor.

If not in conflict with state law, members of the Commission, or its successor, shall serve ex officio as members of the Parking Authority. Any person may serve concurrently as a member of the Parking Authority and the Parking and Traffic Commission. The Commission shall control all property under its jurisdiction.

#### ***Editor's note:***

*Proposition E, adopted November 2, 1999, enacted Charter Sec. 8A.112 and repealed this Charter Section 4.116, to become effective July 1, 2002.*

**SEC. 4.117. ENTERTAINMENT COMMISSION.**

The San Francisco Entertainment Commission shall consist of seven members nominated and appointed pursuant to this section. The Mayor shall nominate four members to the commission, and the Board of Supervisors shall appoint, by motion, three other members to the commission. Each nomination of the Mayor shall be subject to approval by the Board of Supervisors, and shall be the subject of a public hearing and vote within 60 days. If the Board of Supervisors fails to act on a mayoral nomination within 60 days of the date the nomination is transmitted to the Clerk of the Board of Supervisors, the nominee shall be deemed approved. Appointments to the commission shall become effective on the date the Board of Supervisors adopts a motion approving the nomination or on the 61st day following the date the mayoral nomination was transmitted to the Clerk of the Board of Supervisors if the Board of Supervisors fails to act upon the nomination prior to such date.

Of the four members nominated by the Mayor, the Mayor shall nominate one member to represent the interests of City neighborhood associations or groups, one member to represent the interests of entertainment associations or groups, one member to represent the interests of the urban planning community, and one member to represent the interests of the law enforcement community. Of the three members of the commission appointed by the Board of Supervisors, one member shall represent the interests of City neighborhood associations or groups, one member shall represent the interests of entertainment associations or groups, and one member shall represent the interests of the public health community.

To stagger the terms of the members, the initial appointments to the commission shall be as follows: the Mayor shall nominate two members to serve terms of four years, one member to serve a term of three years, and one member to serve a term of two years. Of the three remaining members of the commission, the Board of Supervisors shall appoint one member to serve a term of four years, one member to serve a term of three years, and one member to serve a term of two years. Except for appointments to fill a vacancy, all subsequent appointments shall be for a term of four years.

Members of the commission nominated by the Mayor may be suspended by the Mayor and removed by the Board of Supervisors only as set forth in Section 15.105. Members of the commission appointed directly by the Board of Supervisors may be suspended by a motion of the Board of Supervisors approved by six votes and may be removed by the Board of Supervisors only as set forth in Section 15.105. (Added November 2002)

**SEC. 4.118. COMMISSION ON THE ENVIRONMENT.**

The Commission on the Environment shall consist of seven members appointed by the Mayor, pursuant to Section 3.100, for four-year terms. Members may be removed by the Mayor.

The Department of the Environment shall regularly produce an assessment of San Francisco's environmental condition. It shall also produce and regularly update plans for the long-term environmental sustainability of San Francisco.

Pursuant to the policies and directives set by the Commission, and under the supervision and direction of the department head, the Department shall manage the environmental programs, duties and functions assigned to it pursuant to Section 4.132 or by ordinance.

The Commission shall have the authority to review and make recommendations on any policy proposed for adoption by any City agency regarding conformity with the long-term plans for environmental sustainability, except for those regarding building and land use.

The Commission may investigate and make recommendations to all City agencies related to operations and functions, such as:

1. Solid waste management;
2. Recycling;
3. Energy conservation;
4. Natural resource conservation;
5. Environmental inspections;
6. Toxics;
7. Urban forestry and natural resources;
8. Habitat restoration; and
9. Hazardous materials.

The Commission shall conduct public education and outreach to the community on environmental issues, including, but not limited to each of the categories listed above.

#### **SEC. 4.119. COMMISSION ON THE STATUS OF WOMEN.**

The Commission on the Status of Women shall consist of seven members. Commission members shall be appointed by the Mayor, pursuant to Section 3.100, for four-year terms. Members may be removed by the Mayor only pursuant to Section 15.105. The Commission shall develop and recommend policies and practices for the City and County to reduce the particular impacts on women and girls of problems such as domestic violence, sexual harassment, employment and health care inequity, and homelessness, as well as advocate on behalf of women and girls in such areas. The Commission may be assigned additional duties and functions by ordinance or pursuant to Section 4.132.

#### **SEC. 4.120. COMMISSION ON AGING.**

The Commission on the Aging shall consist of seven members appointed by the Mayor, pursuant to Section 3.100, for four-year terms. Members may be removed by the Mayor. The duties and functions of the Commission shall be assigned pursuant to Section 4.132.

#### **SEC. 4.121. BUILDING INSPECTION COMMISSION.**

The Building Inspection Commission shall consist of seven members. Four members shall be appointed by the Mayor for a term of two years. Three members shall be appointed by the President of the Board of Supervisors for a term of two years. Members may be

*[Section 4.121 continues on page 25.]*

*[Section 4.121 continues on page 25.]*



removed by the appointing officer only pursuant to Section 15.105. Vacancies occurring in the offices of appointive members, either during or at the expiration of a term, shall be filled by the appointing officer.

The four Mayoral appointments shall consist of a structural engineer, a licensed architect, a residential builder, and a representative of a community-based non-profit housing development corporation. The three Supervisorial appointments shall consist of a residential tenant, a residential landlord, and a member of the general public.

Notwithstanding any other provision of the Charter, the Commission shall have the power to appoint and remove a department head.

#### **SEC. 4.122. YOUTH COMMISSION.**

There is hereby established a commission to be known as the Youth Commission (hereinafter called "Commission") to advise the Board of Supervisors and Mayor on issues relating to children and youth. The Commission shall operate under the jurisdiction of the Board of Supervisors.

#### **SEC. 4.123. YOUTH COMMISSION MEMBERSHIP; APPOINTMENT; TERMS; MEETINGS; COMPENSATION; DIRECTOR.**

(a) Commission Membership. The Commission shall consist of seventeen (17) voting members, each of whom shall be between the ages of 12 and 23 years at the time of appointment. Each member of the Board of Supervisors and the Mayor shall appoint one member to the Commission. The Mayor shall also appoint five (5) members from underrepresented communities to ensure that the Commission represents the diversity of the City. All appointments shall be completed by the sixtieth day after the effective date of this charter amendment and by that date of each year thereafter. Commission members shall serve at the pleasure of their appointing authorities.

The Commission shall consist of individuals who have an understanding of the needs of young people in San Francisco, or experience with children and youth programs or youth organizations, or involvement with school or community activities. The members shall represent the diversity of ethnicity, race, gender and sexual orientation of the people of the City and County, and shall be residents of the City and County.

(b) Term of Office. Members shall serve a term of one year. The first one year term for all members shall begin upon the date the Clerk of the Board of Supervisors certifies that all members of the Commission have been appointed following the adoption of this charter amendment. Future terms of office shall begin on that date of each successive year. Members shall conduct the first meeting of the Commission within thirty days of the appointment of all members.

In the event a vacancy occurs during the term of office of any voting member, a successor shall be appointed to complete the unexpired term of the office vacated in a manner similar to that which the member was initially appointed.

(c) Removal of Members. Any member whom the Commission certifies to have missed three regularly scheduled meetings of the Commission in any six month period without prior authorization of the Commission shall be deemed to have resigned from the Commission effective on the date of the written certification from the Commission.

(d) Compensation. Members of the Commission shall not be compensated, nor shall they be reimbursed for expenses.

(e) Meetings. The Commission shall meet at least once a month.

(f) Minutes of Meetings. The Commission shall prepare and maintain permanent minutes of the actions taken during its meetings, and shall file copies with the Clerk of the Board of Supervisors.

(g) Bylaws. To aid in the orderly conduct of business, the Commission shall have the authority to create, amend, and repeal its own code of bylaws.

#### **SEC. 4.124. YOUTH COMMISSION—PURPOSE AND DUTIES.**

The purpose of the Commission is to collect all information relevant to advising the Board of Supervisors and Mayor on the effects of legislative policies, needs, assessments, priorities, programs, and budgets concerning the children and youth of San Francisco. Before the Board of Supervisors takes final action on any matter that primarily affects children and youth of the City and County, the Clerk of the Board of Supervisors shall refer the matter to the Commission for comment and recommendation. The Commission shall provide any response it deems

appropriate within 12 days of the date the Board of Supervisors referred the matter to the Commission. After the 12 day period has elapsed, the Board of Supervisors may act on the matter whether or not the Board has received a response. This referral requirement shall not apply to any matter where immediate action by the Board of Supervisors is necessary to protect the public interest. The Commission shall have the following duties and functions:

(a) Identify the concerns and needs of the children and youth of San Francisco; examine existing social, economic, educational, and recreational programs for children and youth; develop and propose plans that support or improve such programs; and make recommendations thereon to the Mayor and Board of Supervisors.

(b) Identify the unmet needs of San Francisco's children and youth through personal contact with these young people, school officials, church leaders, and others; and hold public forums in which both youth and adults are encouraged to participate.

(c) Elicit the interest, support, and mutual cooperation of private groups (such as fraternal orders, service clubs, associations, churches, businesses, and youth organizations) and city-wide neighborhood planning collaborative efforts for children, youth and families that initiate and sponsor recommendations that address the social, economic, educational, and recreational needs of children and youth in San Francisco. Advise the Board of Supervisors and Mayor about how such recommendations could be coordinated in the community to eliminate duplication in cost and effort.

(d) Advise about available sources of governmental and private funding for youth programs.

(e) Submit recommendations to the Mayor and Board of Supervisors about juvenile crime prevention, job opportunities for youth, recreational activities for teenagers, opportunities for effective participation by youth in the governmental process, and changes in city and county regulations that are necessary to improve the social, economic, educational, and recreational advantages of children and youth.

(f) Respond to requests for comment and recommendation on matters referred to the Commission by officers, departments, agencies, boards, commissions and advisory committees of the City and County.

(g) Report to the Board of Supervisors the activities, goals, and accomplishments of the Commission by July 1 of each calendar year, effective July 1, 1997.

#### **SEC. 4.125. JURISDICTION.**

The Commission shall be under the jurisdiction of the Board of Supervisors; the Commission shall have only those powers created by Sections 4.122 through 4.125 or by ordinance of the Board of Supervisors.

#### **SEC. 4.126. DEPARTMENTS—GENERAL PROVISIONS.**

Except as otherwise provided by this Charter, the responsibilities of each department within the executive branch shall be prescribed by ordinance.

The administration and management of each department within the executive branch shall be the responsibility of the department head. Such officials may:

1. Appoint qualified individuals to fill all positions within their departments which are exempt from the Civil Service provisions of this Charter;

2. Adopt rules and regulations governing matters within the jurisdiction of their respective departments, subject, if applicable, to Section 4.102; and

3. With the approval of the City Administrator, reorganize their respective departments.

No person serving on a board or commission created by state law to discharge a state function specifically within the City and County may be employed as a paid staff member to a board or commission created by this Charter.

#### **SEC. 4.127. POLICE DEPARTMENT.**

The Police Department shall preserve the public peace, prevent and detect crime, and protect the rights of persons and property by enforcing the laws of the United States, the State of California and the City and County.

The Chief of Police may appoint and remove at pleasure special police officers.

The Chief of Police shall have all powers which are now or that may be conferred upon a sheriff by state law with respect to the suppression of any riot, public tumult, disturbance of the public peace or organized resistance against the laws or public authority.

**DISTRICT POLICE STATIONS.** The Police Department shall maintain and operate district police stations. The Police Commission, subject to the approval by the Board of Supervisors, may establish additional district stations, abandon or relocate any district station, or consolidate any two or more district stations.

**OFFICE OF CITIZEN COMPLAINTS.** The Mayor shall appoint a nominee of the Police Commission as the director of the Office of Citizen Complaints, subject to confirmation by the Board of Supervisors. The director shall serve at the pleasure of the Police Commission. If the Board fails to act on the appointment within 30 days, the appointment shall be deemed approved. In the event the office is vacant, until the mayor makes an appointment and that appointment is confirmed by the Board, the Police Commission shall appoint an interim director who shall serve at the pleasure of the Police Commission. The appointment shall be exempt from the civil service requirements of this Charter. The director shall never have been a uniformed member or employee of the department. The director of the Office of Citizen Complaints shall be the appointing officer under the civil service provisions of this Charter for the appointment, removal or discipline of employees of the Office of Citizen Complaints.

The Police Commission shall have the power and duty to organize, reorganize and manage the Office of Citizen Complaints. Subject to the civil service provisions of this Charter, the Office of Citizen Complaints shall include investigators and hearing officers. As of July 1, 1996, the staff of the Office of Citizen Complaints shall consist of no fewer than one line investigator for every 150 sworn members. Whenever the ratio of investigators to police officers specified by this section is not met for more than 30 consecutive days, the director shall have the power to hire, and the city Controller must pay, temporary investigators to meet such staffing requirements. No full-time or part-time employee of the Office of Citizen Complaints shall have previously served as a uniformed member of the department. Subject to rule of the Police Commission, the director of the Office of Citizen Complaints may appoint part-time hearing officers who shall be exempt from the civil service requirements of this Charter. Compensation of the hearing officers shall be at rates recommended by the Commission and established by the Board of

Supervisors or by contract approved by the Board of Supervisors.

Complaints of police misconduct or allegations that a member of the Police Department has not properly performed a duty shall be promptly, fairly and impartially investigated by staff of the Office of Citizen Complaints. The Office of Citizen Complaints shall investigate all complaints of police misconduct, or that a member of the Police Department has not properly performed a duty, except those complaints which on their face clearly indicate that the acts complained of were proper and those complaints lodged by other members of the Police Department. The Office of Citizen Complaints shall use its best efforts to conclude investigations of such complaints and, if sustained, transmit the sustained complaint to the Police Department within nine (9) months of receipt thereof by the Office of Citizen Complaints. If the Office of Citizen Complaints is unable to conclude its investigation within such nine-month period, the director of the Office of Citizen Complaints, within such nine-month period, shall inform the Chief of Police of the reasons therefor and transmit information and evidence from the investigation as shall facilitate the Chief's timely consideration of the matter. The Office of Citizen Complaints shall recommend disciplinary action to the Chief of Police on those complaints that are sustained. The director of the Office of Citizen Complaints, after meeting and conferring with the Chief of Police or his or her designee, may verify and file charges with the Police Commission against members of the Police Department arising out of sustained complaints; provided, that the director may not verify and file such charges for a period of 60 days following the transmittal of the sustained complaint to the Police Department unless the director issues a written determination that the limitations period within which the member or members may be disciplined under Government Code Section 3304, as amended from time to time or any successor provisions thereto, may expire within such 60-day period and either (i) the Chief of Police fails or refuses to file charges with the Police Commission arising out of the sustained complaint, (ii) the Chief of Police or his or her designee fails or refuses to meet and confer with the director on the matter, or (iii) other exigent circumstances necessitate that the director verify and file charges to preserve the ability of the Police



Commission to impose punishment pursuant to Section A8.343. The director of the Office of Citizen Complaints shall schedule hearings before hearing officers when such is requested by the complainant or a member of the department and, in accordance with rules of the Commission, such a hearing will facilitate the fact-finding process. The Board of Supervisors may provide by ordinance that the Office of Citizen Complaints shall in the same manner investigate and make recommendations to the Chief of Police regarding complaints of misconduct by patrol special police officers and their uniformed employees.

Nothing herein shall prohibit the Chief of Police or a commanding officer from investigating the conduct of a member of the department under his or her command, or taking disciplinary or corrective action, otherwise permitted by this Charter, when such is warranted; and nothing herein shall limit or otherwise restrict the disciplinary powers vested in the Chief of Police and the Police Commission by other provisions of this Charter.

The Office of Citizen Complaints shall prepare in accordance with rules of the Commission monthly summaries of the complaints received and shall prepare recommendations quarterly concerning policies or practices of the department which could be changed or amended to avoid unnecessary tension with the public or a definable segment of the public while insuring effective police services. The Office of Citizen Complaints shall prepare a report for the President of the Board of Supervisors each quarter. This report shall include, but not be limited to, the number and type of complaints filed, the outcome of the complaints, and a review of the disciplinary action taken. The President of the Board of Supervisors shall refer this report to the appropriate committee of the Board of Supervisors charged with public safety responsibilities. Said committee may issue recommendations as needed.

In carrying out its objectives the Office of Citizen Complaints shall receive prompt and full cooperation and assistance from all departments, officers and employees of the City and County which shall promptly produce all records requested by the Office of Citizen Complaints except for records the disclosure of which to the Office of Citizen Complaints is prohibited by law. The director may also request and the Chief of Police shall require the testimony or attendance of any member of the Police

Department to carry out the responsibilities of the Office of Citizen Complaints.

**BUDGET.** Monetary awards and settlements disbursed by the City and County as a result of police action or inaction shall be taken exclusively from a specific appropriation listed as a separate line item in the Police Department budget for that purpose.

**POLICE STAFFING.** The police force of the City and County shall at all times consist of not fewer than 1,971 full duty sworn officers. The staffing level of the Police Department shall be maintained with a minimum of 1,971 full duty sworn officers thereafter. That figure may be adjusted pursuant to Section 16.123.

All officers and employees of the City and County are directed to take all acts necessary to implement the provisions of this section. The Board of Supervisors is empowered to adopt ordinances necessary to effectuate the purpose of this section including but not limited to ordinances regulating the scheduling of police training cases.

Further, the Commission shall initiate an annual review to civilianize as many positions as possible to maximize police presence in the communities and submit that report to the Board of Supervisors annually for review and approval.

The number of full duty sworn officers in the Police Department dedicated to neighborhood policing and patrol for fiscal year 1993-1994 shall not be reduced in future years, and all new full duty sworn officers authorized for the Police Department shall also be dedicated to neighborhood community policing, patrol and investigations.

**PATROL SPECIAL POLICE OFFICERS.** The Commission may appoint patrol special police officers and for cause may suspend or dismiss patrol special police officers after a hearing on charges duly filed with the Commission and after a fair and impartial trial. Patrol special police officers shall be regulated by the Police Commission, which may establish requirements for and procedures to govern the position, including the power of the Chief of Police to suspend a patrol special police officer pending a hearing on charges. Each patrol special police officer shall be at the time of appointment not less than 21 years of age and must possess such physical qualifications as may be required by the Commission.

Patrol special police officers may be designated by the Commission as the owners of a certain beat or

territory which may be established or rescinded by the Commission. Patrol special police officers designated as the owners of a certain beat or territory or the legal heirs or representatives of the owners may dispose of their interest in the beat or territory to a person of good moral character, approved by the Police Commission and eligible for appointment as a patrol special police officer.

Commission designation of beats or territories shall not affect the ability of private security companies to provide on-site security services on the inside or at the entrance of any property located in the City and County. (Amended November 2003; March 2004)

#### **SEC. 4.128. FIRE DEPARTMENT.**

The Fire Department shall perform duties and enforce all applicable laws pertaining to the protection from, and the prevention, suppression, control and investigation of fires.

The Fire Chief shall cause the Fire Department to inspect all occupied or vacated structures to determine compliance with applicable laws relative to fire prevention, protection and control and also the protection of persons and property from fire.

The Fire Chief may during a conflagration cause to be removed any structure for the purpose of checking the progress of the conflagration.

#### **SEC. 4.129. DEPARTMENT OF ADMINISTRATIVE SERVICES.**

The director of the Department of Administrative Services shall purchase all supplies, equipment and contractual services required by the several departments and offices of the City and County, except as otherwise provided in the Administrative Code. Except in cases of emergency, the director shall not enter into any contract or issue any purchase order unless the Controller shall certify thereon that sufficient unencumbered balances are available in the proper fund to meet the payments under such purchase order or contract as these become due. The director shall have charge of the central warehouses, central storerooms, central garage and shop.

The director shall by rules and regulations approved by the Controller, designate and authorize appropriate personnel within the Department of Administrative Services to exercise the director's signature powers for purchase orders and contract.

The director shall have authority to exchange

used materials, supplies and equipment to the advantage of the City and County, advertise for bids, and to sell and otherwise dispose of personal property belonging to the City and County. The director shall have authority to require the transfer of surplus property in any department to stores or to other departments.

The director shall manage all public buildings, facilities and real estate of the City and County, unless otherwise provided for in this Charter.

Additional duties and functions of the Department of Administrative Services shall be assigned the City Administrator, by ordinance or pursuant to Section 4.132.

#### **SEC. 4.130. DEPARTMENT OF PUBLIC WORKS.**

The duties and functions of the Department of Public Works shall be assigned by the City Administrator, by ordinance or pursuant to Section 4.132.

#### **SEC. 4.131. COUNTY CLERK.**

The County Clerk shall perform all duties of the County Clerk-Recorder until such office is merged into the Office of the Assessor-Recorder pursuant to Section 6.101.

#### **SEC. 4.132. EXECUTIVE BRANCH REORGANIZATION.**

The Mayor, by issuing a notice to the Board of Supervisors, may reorganize duties and functions between departments and other units of government within the executive branch. Such reorganization shall become effective 30 days after its issuance unless disapproved by the Board of Supervisors during that time.

A proposed reorganization shall provide for the transfer of:

1. Civil service employees who are engaged in the performance of a function or duty transferred to another office, agency or department; such transfer shall not adversely affect status, position, compensation or pension or retirement rights and privileges;

2. Any unexpended balances of appropriations and other funds available for use in connection with any office, agency, department or function affected by the reorganization; any unexpended balance so transferred shall be used only for the purpose for which the appropriation was originally made, except as this Charter otherwise permits.

**SEC. 4.133. TAXI COMMISSION.**

(a) The Taxi Commission shall consist of seven members, appointed by the Mayor. The appointments shall include a member from the senior or disabled communities, a driver who does not hold a taxicab medallion, a manager in a taxicab company (either a medallion holder or a company representative), a member from the hospitality industry, a member from the labor community, a member from the neighborhoods, and a member of the general public not affiliated with any of the other enumerated categories.

Pursuant to Government Code Section 87103, individuals appointed to the Commission under this Section are intended to represent and further the interest of the particular industries, trades, or professions specified herein. Accordingly, it is found that for purposes of persons who hold such office, the specified industries, trades, or professions are tantamount to and constitute the public generally within the meaning of Government Code Section 87103.

The commissioners appointed to take office upon the effective date of this Charter section shall by lot classify their terms so that the terms of three of the commissioners shall expire at noon on the first anniversary of such date, and the terms of the remaining four commissioners shall expire at noon on the second anniversary of the effective date. On the expiration of these and successive terms of office, the appointments shall be made for two-year terms.

Members may be removed by the Mayor only pursuant to Section 15.105. Vacancies occurring in the offices of members, either during or at the expiration of a term, shall be filled by the Mayor.

(b) Effective March 1, 1999, the Commission shall succeed to all powers and responsibilities relating to taxicabs and other motor vehicles for hire, other than criminal enforcement, now vested in the Police Commission, the Police Department or the Chief of Police. The Taxi Commission may be assigned additional duties and functions by ordinance or pursuant to Section 4.132.

(c) All costs associated with the operations of the Taxi Commission, and such officers and employees as are necessary for the Commission to operate and administer the department and are authorized pursuant to the budgetary and fiscal

provisions of the Charter, shall be recovered from permit, license and other fees charged to permit-holders, applicants, and other persons by the Commission. The Board of Supervisors shall set fees sufficient to offset the costs of the Commission's operations and any such officers and employees. Notwithstanding the above, the Board of Supervisors may continue to offer reduced fees to operators who participate in the City's Paratransit Program, and offset the reduction in revenues with a contribution from the General Fund. (Added November 1998)

**SEC. 4.134. SMALL BUSINESS COMMISSION.**

(a) There shall be a Small Business Commission to oversee the San Francisco Office of Small Business. The Commission shall consist of seven members, who shall serve at the pleasure of the appointing authority. The Mayor shall appoint four members of the Commission; the Board of Supervisors shall appoint the remaining three members. The Mayor shall designate two of his or her initial appointments to serve for two-year terms; the Board of Supervisors shall designate one of its initial appointments to serve a two-year term. Thereafter, all commissioners shall serve for four-year terms.

(b) At least five of the individuals appointed to the Commission shall be owners, operators, or officers of San Francisco small businesses. One of the individuals appointed to the Commission may be either a current or former owner, operator, or officer of a San Francisco small business. One member of the Commission may be an officer or representative of a neighborhood economic development organization or an expert in small business finance.

Pursuant to Government Code Section 87103, individuals appointed to the Commission under this Section are intended to represent and further the interest of the particular industries, trades, or professions specified herein. Accordingly, it is found that for purposes of persons who hold such office, the specified industries, trades, or professions are tantamount to and constitute the public generally within the meaning of Government Code Section 87103.

(c) The Mayor and the Board of Supervisors shall select Commission members who reflect the diversity of neighborhood and small business interests in the City. (Added November 2003)



## ARTICLE V: EXECUTIVE BRANCH—ARTS AND CULTURE

- Sec. 5.100. General.
- Sec. 5.101. Charitable Trust Departments
- Sec. 5.102. City Museums.
- Sec. 5.103. Arts Commission.
- Sec. 5.104. Asian Art Museum of San Francisco.
- Sec. 5.105. The Fine Arts Museums of San Francisco.
- Sec. 5.106. War Memorial and Performing Arts Center.

### SEC. 5.100. GENERAL.

The arts and culture departments of the City and County shall be the Arts Commission, the Asian Art Museum of San Francisco, the Fine Arts Museums of San Francisco and the War Memorial and Performing Arts Center. These departments shall be a part of the executive branch of City and County government.

The terms of office of all trustees and commissioners shall continue as they existed on the effective date of this Charter. All vacancies shall be filled within 90 days.

The governing boards of the arts and culture departments may accept and shall comply with the terms and conditions of loans, gifts, devises, bequests or agreements donating works of art or other assets to their department without action of the Board of Supervisors so long as acceptance of the same entails no expense for the City and County beyond ordinary care and maintenance.

### SEC. 5.101. CHARITABLE TRUST DEPARTMENTS.

For the purposes of this Article, the Asian Art Museum of San Francisco, The Fine Arts Museums of San Francisco and the War Memorial and Performing Arts Center are referred to as the "charitable trust departments."

Nothing in this Article shall be construed to limit or change the powers and responsibilities of the governing boards of the charitable trust departments

insofar as they involve administration of the charitable trusts, gifts and contracts for which they are responsible.

The charitable trust departments shall have exclusive charge of the trusts and all other assets under their jurisdiction, which may be acquired by loan, purchase, gift, devise, bequest or otherwise, including any land or buildings set aside for their use. They shall have authority to maintain, operate, manage, repair or reconstruct existing buildings and construct new buildings, and to make and enter into contracts relating thereto, subject, insofar as City funds are to be used, to the budgetary and fiscal provisions of this Charter.

### SEC. 5.102. CITY MUSEUMS.

When the term "museums" is used in this Article, unless otherwise specified, it refers to both the Asian Art Museum of San Francisco and The Fine Arts Museums of San Francisco.

Trustees and commissioners of the museums are exempt from the requirement of Section 4.101(2) of this Charter, except that at least a majority of The Fine Arts Museum Board of Trustees shall be residents of the City and County. Members shall serve for three-year terms, and may be removed by the Mayor only pursuant to Section 15.105. Members shall serve without compensation.

The governing boards of the museums shall adopt by-laws providing for the conduct of their affairs, including the appointment of an executive committee which shall have authority to act in such matters as are specified by the governing board.

The governing boards of the museums shall appoint and may remove a director and such other executive and administrative positions as may be necessary. Appointees to such positions need not be residents of the City and County. Notwithstanding any other provision of this Charter, the governing boards may accept and utilize contributions to supplement or

pay for the salaries and benefits of these appointees in order to establish competitive compensation, provided that only compensation established pursuant to the salary provisions of this Charter shall be considered for Retirement System purposes.

The governing boards of the museums may insure any loaned exhibit and agree to indemnification and binding arbitration provisions necessary to insuring exhibitions without action of the Board of Supervisors so long as such agreement entails no expense to the City and County beyond ordinary insurance expense. The Recreation and Park Department shall maintain and care for the grounds of the Museums.

#### **SEC. 5.103. ARTS COMMISSION.**

The Arts Commission shall consist of fifteen members appointed by the Mayor, pursuant to Section 3.100, for four-year terms. Eleven members shall be practicing arts professionals including two architects, a landscape architect, and representatives of the performing, visual, literary and media arts; and four members shall be lay members. The President of the Planning Commission, or a member of the Commission designated by the President, shall serve ex officio. Members may be removed by the Mayor.

The Commission shall appoint and may remove a director of the department.

The Commission shall encourage artistic awareness, participation and expression; education in the arts; assist independent local groups with the development of their own programs; promote the employment of artists and those skilled in crafts, in the public and private sectors; provide liaison with state and federal agencies to ensure increased funding for the arts from these agencies as well as represent arts issues and policy in the respective governmental bodies; promote the continued availability of living and working space for artists within the City and County; and enlist the aid of all City and County governmental units in the task of ensuring the fullest expression of artistic potential by and among the residents of San Francisco.

In furtherance of the foregoing the Arts Commission shall:

1. Approve the designs for all public structures, any private structure which extends over or upon any public property and any yards, courts, set-backs or

usable open spaces which are an integral part of any such structures;

2. Approve the design and location of all works of art before they are acquired, transferred or sold by the City and County, or are placed upon or removed from City and County property, or are altered in any way; maintain and keep an inventory of works of art owned by the City and County; and maintain the works of art owned by the City and County;

3. Promote a neighborhood arts program to encourage and support an active interest in the arts on a local and neighborhood level, assure that the City and County-owned community cultural centers remain open, accessible and vital contributors to the cultural life of the City and County, establish liaison between community groups and develop support for neighborhood artists and arts organizations; and

4. Supervise and control the expenditure of all appropriations made by the Board of Supervisors for the advancement of the visual, performing or literary arts.

Nothing in this section shall be construed to limit or abridge the powers or exclusive jurisdiction of the charitable trust departments or the California Academy of Sciences or the Library Commission over their activities; the land and buildings set aside for their use; or over the other assets entrusted to their care.

#### **SEC. 5.104. ASIAN ART MUSEUM OF SAN FRANCISCO.**

The Asian Art Commission shall consist of twenty-seven trustees appointed by the Mayor. In filling vacancies, the Mayor shall solicit nominations from the Commission and shall give due consideration to such nominees in filling such vacancies to the end that the members of the Commission shall be representative of the fields of Asian art and culture by reason of their knowledge, experience, education, training, interest or activity therein.

The Commission shall:

1. Develop and administer that museum which is known as the "Asian Art Museum of San Francisco," or by such other title as may be chosen by not less than two-thirds of the members of the Commission;

2. Control and manage the City and County's Asian art with the Avery Brundage Collection as its

nucleus, consistent with the conditions applicable to the Brundage Collection and other gifts;

3. Maintain a charitable foundation or other legal entity for the purpose of developing the Asian Art Museum;

4. Promote, establish and develop an acquisition fund for Asian art objects; and

5. Collaborate with other groups and institutions to extend and deepen the activities necessary to establish the Asian Art Museum as the outstanding center of Asian art and culture in the western world.

#### **SEC. 5.105. THE FINE ARTS MUSEUMS OF SAN FRANCISCO.**

The California Palace of Legion of Honor and the M.H. de Young Memorial Museum shall compromise the Fine Arts Museums of San Francisco, or such other title as may be chosen by not less than two-thirds of the trustees of the Fine Arts Museums. The Fine Arts Museums Board of Trustees shall consist of 62 members to be elected by the members of the Board. On a vote of the majority of members, the number of Trustees may be increased or decreased from time to time as needed, provided that the number of Trustees shall not be more than 62, and provided further that a vote to decrease the number shall not affect the power or tenure of any incumbent. The Board may act by majority of the members present at meeting in which a quorum is in attendance.

In selecting members to serve on the Board, the Board of Trustees shall give due consideration to nominees who are broadly representative of the diverse communities of the City and County and knowledgeable in the fields of art and culture, as demonstrated by their experience, training, interest or philanthropic activity.

A quorum of the Board shall consist of one-third of the number of trustees in office at the time. A majority or two-thirds vote of the Board shall mean a majority or two-thirds vote of the number of trustees present at the meeting at which the vote is taken.

The Board is responsible for the protection and conservation of the assets of the Fine Arts Museums and for setting the public course the Museums will follow. The Board shall assure that the Museums are open, accessible and vital contributors to the cultural life of the City and County, and that the Museums'

programs bring art appreciation and education to all the people of the City and County.

The Board may enter into agreements with a not-for-profit or other legal entity to develop or operate the museums and to raise and maintain funds for the museums' support.

#### **SEC. 5.106. WAR MEMORIAL AND PERFORMING ARTS CENTER.**

The governing board of the War Memorial and Performing Arts Center shall consist of eleven trustees appointed by the Mayor, pursuant to Section 3.100, for four-year terms. In making appointments the Mayor shall give due consideration to veterans and others who have a special interest in the purposes for which the Center exists. Members may be removed by the Mayor only pursuant to Section 15.105.

The governing board shall appoint and may remove a director.



## ARTICLE VI: OTHER ELECTIVE OFFICERS

- Sec. 6.100. Designation of Other Elective Officers.
- Sec. 6.101. Assessor-Recorder.
- Sec. 6.102. City Attorney.
- Sec. 6.103. District Attorney.
- Sec. 6.104. Public Defender.
- Sec. 6.105. Sheriff.
- Sec. 6.106. Treasurer.
- Sec. 6.107. [Repealed]

### SEC. 6.100. DESIGNATION OF OTHER ELECTIVE OFFICERS.

In addition to the officers required to be elected under other Articles of this Charter, the following shall constitute the elective officers of the City and County: the Assessor-Recorder, City Attorney, District Attorney, Public Defender, Sheriff and Treasurer. Each such officer shall be elected for a four-year term and shall serve full time.

The City Attorney shall be licensed to practice law in all courts of the State of California and shall have been so licensed for at least ten years next preceding his or her election. The District Attorney and Public Defender shall each be licensed to practice law in all courts of the State of California and shall have been so licensed for at least five years next preceding his or her election. Such officers shall not engage in the private practice of law during the period they serve as elective officers of the City and County.

Subject to the powers and duties set forth in this Charter, the officers named in this section shall have such additional powers and duties prescribed by state laws for their respective office. The terms of office in effect for these officers on the date this Charter is adopted shall continue.

### SEC. 6.101. ASSESSOR-RECORDER.

The Assessor-Recorder shall:

1. Equitably and effectively administer the property assessment system of the City and County; and

2. Exercise the duties of Assessor and Recorder provided under state law, effective July 1, 1997.

### SEC. 6.102. CITY ATTORNEY.

The City Attorney shall:

1. Represent the City and County in legal proceedings with respect to which it has an interest; provided that any elected officer, department head, board or commission may engage counsel other than the City Attorney for legal advice regarding a particular matter where the elected officers department head, board or commission has reason to believe that the City Attorney may have a prohibited financial conflict of interest under California law or a prohibited ethical conflict of interest under the California Rules of Professional Conduct with regard to the matter, subject to the following limitations and conditions.

The elected officer, department head, board or commission shall first present a written request to the City Attorney for outside counsel. The written request shall specify the particular matter for which the elected officer, department head, board or commission seeks the services of outside counsel, a description of the requested scope of services, and the potential conflict of interest that is the basis for the request. Within five working days after receiving the written request for outside counsel, the City Attorney shall respond in writing to the elected officer, department head, board or commission either consenting or not consenting to the provision of outside counsel. If the City Attorney does not consent to the provision of outside counsel, the City Attorney shall state in the written response why he or she believes that there is no conflict of interest regarding the particular matter.

If the elected officer, department head, board or commission continues to believe there are adequate grounds for outside counsel despite the City Attorney's response that there is no conflict of interest, the elected officer, department head, board or



commission may, within thirty days after receiving the City Attorney's response, refer the issue of whether the City Attorney has a prohibited conflict of interest regarding a particular matter to a retired judge or justice of the state courts of California for resolution. If the elected officer, department head, board or commission and City Attorney cannot agree on a retired judge to hear the matter, the retired judge shall be selected at random by an alternative dispute resolution provider. If the matter is referred to a retired judge, the elected officer, department head, board or commission, subject to the budgetary and fiscal provisions of the Charter, shall be entitled to retain outside counsel to represent it solely on the issue of whether the City Attorney has a conflict of interest regarding the particular matter.

In deciding whether the City Attorney has a conflict of interest regarding a particular matter, the retired judge shall be bound by and apply the applicable substantive law and Rules of Professional Conduct as if he or she were a court of law. To the extent practicable, the retired judge shall hear the matter within 15 days after its assignment to the retired judge, and within 15 days after the hearing, shall issue a written opinion stating the basis for the decision. The retired judge, but not the City Attorney or elected officer, department head, board or commission, shall have the power to subpoena witnesses and documents in this proceeding.

The retired judge may request that the City Attorney secure written advice from the California Fair Political Practices Commission, the State Bar of California, or the California Attorney General on the question of whether the City Attorney has a conflict of interest regarding the particular matter. Upon such a request by the retired judge, the City Attorney shall secure such written advice. The retired judge may consider, but is not bound by, written advice so secured. The decision of the retired judge shall be final for the limited purpose of determining whether or not the elected officer, department head, board or commission may retain outside counsel for the particular matter.

If the retired judge decides that the City Attorney does not have a conflict of interest regarding the particular matter, the City Attorney shall continue to

be the legal adviser to the elected officer, department head, board or commission for such matter. If the retired judge decides that the City Attorney has a conflict of interest regarding a particular matter, the elected officer, department head, board or commission shall be entitled to retain outside counsel for legal advice regarding the particular matter, and the City Attorney shall thereupon cease to advise the elected officer, department head board or commission on such matter. Any such finding of a conflict of interest shall not affect the City Attorney's role as legal advisor to the elected officer, department head, board or commission on all other matters.

If at any time after the retention of outside counsel, the City Attorney believes that there is no longer a conflict of interest, the City Attorney shall state in writing to the elected officer, department head, board or commission why he or she believes that there is no longer a conflict of interest. Within five working days after receiving the written statement from the City Attorney, the elected officer, department head, board or commission shall respond in writing, either agreeing or disagreeing that there is no longer a conflict of interest. If the elected officer, department head, board or commission agrees that there is no longer a conflict of interest regarding a particular matter, the elected officer, department head, board or commission shall cease employing outside counsel for legal advice regarding the matter, and the City Attorney shall serve as legal adviser to the elected officer, department head, board or commission regarding that matter. If the elected officer, department head, board or commission states in its written response that it believes the conflict of interest still exists, the City Attorney may, within ten working days after receiving the response of the elected officer, department head, board or commission, elect to refer the issue of whether the conflict of interest regarding the particular matter continues to exist to the same retired judge who originally heard the matter, if available. The same procedures as established herein shall apply thereafter.

In selecting outside counsel for any purpose described in this Section, the elected officer, department head, board or commission shall give preference to engaging the services of a city attorney's office, a



county counsel's office or other public entity law office with an expertise regarding the subject-matter jurisdiction of the elected officer, department head, board or commission. If the elected officer, department head, board or commission concludes that private counsel is necessary, that attorney must be a member in good standing with the Bar of California who has at least five year's experience in the subject-matter jurisdiction of the elected officer, department head, board or commission. Any private counsel retained pursuant to this Section shall be subject to the conflict of interest provisions of Section 13.103.5. The cost of any of the services of outside counsel and of the alternative dispute resolution process authorized by this Section shall be paid for by the elected officer, department head, board or commission, subject to the budgetary and fiscal provisions of this Charter.

2. Represent an officer or official of the City and County when directed to do so by the Board of Supervisors, unless the cause of action exists in favor of the City and County against such officer or official;

3. Whenever a cause of action exists in favor of the City and County, commence legal proceedings when such action is within the knowledge of the City Attorney or when directed to do so by the Board of Supervisors, except for the collection of taxes and delinquent revenues, which shall be performed by the attorney for the Tax Collector;

4. Upon request, provide advice or written opinion to any officer, department head or board, commission or other unit of government of the City and County;

5. Make recommendations for or against the settlement or dismissal of legal proceedings to the Board of Supervisors prior to any such settlement or dismissal. Such proceedings shall be settled or dismissed by ordinance and only upon the recommendation of the City Attorney;

6. Approve as to form all surety bonds, contracts and, prior to enactment, all ordinances; and examine and approve title to all real property to be acquired by the City and County;

7. Prepare, review annually and make available to the public a codification of ordinances of the City and County then in effect;

8. Prepare and make available to the public an annual edition of this Charter complete with all of its amendments and legal annotations; and

9. Establish in the Office of the City Attorney a Bureau of Claims Investigation and Administration which shall have the power to investigate, evaluate and settle for the several boards, commissions and departments all claims for money or damages. The Bureau shall also have the power to investigate incidents where the City faces potential civil liability, and to settle demands before they are presented as claims, within dollar limits provided for by ordinance, from a revolving fund to be established for that purpose. The City Attorney shall appoint a chief of the Bureau who shall serve at his or her pleasure. The chief of the Bureau may appoint, subject to confirmation by the City Attorney, investigators who shall serve at the pleasure of the chief.

10. During his or her tenure, not contribute to, solicit contributions to, publicly endorse or urge the endorsement of or otherwise participate in a campaign for a candidate for City elective office, other than himself or herself, or of a City ballot measure or be an officer, director or employee of or hold a policymaking position in an organization that makes political endorsements regarding candidates for City elective office or City ballot measures. (Amended November 2001; November 2002)

#### **SEC. 6.103. DISTRICT ATTORNEY.**

The District Attorney shall:

1. Investigate all allegations of violations of laws which the District Attorney has the power to prosecute in court or before any other trier of fact;

2. Prosecute all criminal cases in the appropriate courts and issue warrants for the arrest of persons charged with crimes to be prosecuted in such courts; and

3. Proceed in such civil cases as authorized by state law.

**SEC. 6.104. PUBLIC DEFENDER.**

The Public Defender shall, upon the request of an accused who is financially unable to employ counsel, or upon order of the Court, defend or give counsel or advice to any person charged with the commission of a crime or in danger of criminal prosecution.

**SEC. 6.105. SHERIFF.**

The Sheriff shall:

1. Keep the county jail;
  2. Receive all prisoners committed to jail by competent authorities;
  3. Execute the orders and legal processes issued by courts of the State of California;
  4. Upon court order detail necessary bailiffs;
- and
5. Execute the orders and legal processes issued by the Board of Supervisors or by any legally authorized department or commission.

The Sheriff shall appoint, and at his or her pleasure may remove, an attorney, one under-sheriff, one assistant sheriff and one confidential secretary.

**SEC. 6.106. TREASURER.**

The Treasurer shall be responsible for the collection of taxes, the receipt of all monies collected by the City and County and their safeguard, deposit and investment in accordance with sound financial practices, and shall be responsible for collection of delinquent revenue. The Treasurer shall appoint a Chief Assistant and a Tax Collector who shall serve at the pleasure of the Treasurer.

**SEC. 6.107.**

(Repealed November 2001)

*[The next page is number 37.]*

## **ARTICLE VII: JUDICIAL BRANCH**

- Sec. 7.100. Superior and Municipal Courts.
- Sec. 7.101. Adult Probation.
- Sec. 7.102. Juvenile Probation.

### **SEC. 7.100. SUPERIOR AND MUNICIPAL COURTS.**

The powers and duties of the Superior and Municipal Courts are as prescribed by state law.

Any fees required to be collected by the Superior Court, Municipal Court or the Clerks of such Courts shall be deposited into the treasury of the City and County and distributed therefrom as provided for by state law.

### **SEC. 7.101. ADULT PROBATION.**

Adult probation is a county function which is prescribed by state law. The Superior Court shall appoint the Chief Adult Probation Officer. The Chief Adult Probation Officer shall appoint such assistants, deputies and employees as may be allowed or provided by the Board of Supervisors.

The Chief Adult Probation Officer, and his or her assistants and deputies, shall have the powers and duties conferred upon such adult probation officers, assistants and deputies by state laws; and such additional duties as may be prescribed by ordinances of the Board of Supervisors.

### **SEC. 7.102. JUVENILE PROBATION.**

The Juvenile Probation Commission shall consist of seven members who shall be appointed by the Mayor, pursuant to Section 3.100, for staggered four-year terms. Two of the members shall be appointed from lists of eligibles submitted to the Mayor by the Superior Court. The Juvenile Probation Department shall be a part of the executive branch.

Members may be removed by the Mayor only pursuant to Section 15.105.

Any member may serve concurrently as a member of the Juvenile Justice Commission created by

state law and as a member of the Juvenile Probation Commission herein created.

The Chief Juvenile Probation Officer, assistants and deputies shall have the powers and duties conferred upon such Chief Juvenile Probation Officers, assistants and deputies by state law; and they shall perform all of the duties prescribed by such laws, and such additional duties as may be prescribed by ordinances of the Board of Supervisors.



## ARTICLE VIII: EDUCATION AND LIBRARIES

- Sec. 8.100. Unified School District.
- Sec. 8.101. Governing Board of the Community College District.
- Sec. 8.102. Public Libraries.
- Sec. 8.103. Law Library.

### SEC. 8.100. UNIFIED SCHOOL DISTRICT.

The Unified School District shall be under the control and management of a Board of Education composed of seven members who shall be elected by the voters of the Unified School District. A student representative shall serve on the Board in accordance with state law. No member of this Board shall be eligible to serve on the Governing Board of the Community College District. The compensation for each member shall be \$500 per month. The terms of office in effect for Board members on the date this Charter is adopted shall continue. (Amended November 2001)

### SEC. 8.101. GOVERNING BOARD OF THE COMMUNITY COLLEGE DISTRICT.

The Community College District shall be under the control and management of a Governing Board composed of seven members who shall be elected by the voters of the Community College District. A student representative shall serve on the Governing Board in accordance with state law. No member of this Board shall be eligible to serve on the Board of Education. The compensation for each member shall be \$500 per month. The terms of office in effect for Board members on the date this Charter is adopted shall continue. (Amended November 2001)

### SEC. 8.102. PUBLIC LIBRARIES.

Libraries including the Library Commission and the Library Department shall be a part of the executive branch.

The Commission shall consist of seven members appointed by the Mayor, pursuant to Section 3.100, for four-year terms. Members may be removed by the Mayor.

### SEC. 8.103. LAW LIBRARY.

The San Francisco Law Library shall be under the management and control of the Board of Trustees, as established by act of the Legislature approved March 9, 1870. The Board shall consist of seven appointive members of the San Francisco bar, and the Mayor, the Presiding Judge and the three judges of the Appellate Department of the Superior Court, ex-officio. All vacancies on the Board shall be filled by the Board.

Pursuant to state law, the Board shall appoint and at its pleasure may remove a librarian, who shall be its executive officer. The Board shall have complete authority to manage its affairs consistent with this Charter and state law.

Compensation of Law Library personnel shall be fixed by the executive officer of the Law Library, with approval of the Board of Trustees. Subject to the budgetary and fiscal provisions of this Charter, the City and County shall continue to fund the salaries for at least the positions of Librarian, Assistant Librarian and Bookbinder.

The City and County shall provide suitable and sufficient quarters for the Law Library, fix up and furnish the same and provide for the supply of necessary light, heat, stationery and other conveniences. The Library shall be so located as to be readily accessible to the judges and officers of the courts.

The Clerks of the Superior and Municipal Courts shall collect fees provided for law libraries by general law and the fees so collected shall be paid monthly to the Treasurer of the Law Library, and shall constitute a law library fund to be expended by the Trustees in the purchase of books and periodicals, and in the establishment and maintenance of the Law Library.

The judiciary, city, county and state officials, members of the Bar, and all inhabitants of the City and County shall have free access, use and enjoyment of the Law Library, subject to the rules and regulations of the Trustees.





## ARTICLE VIIIA: THE MUNICIPAL TRANSPORTATION AGENCY

- Sec. 8A.100. Preamble.
- Sec. 8A.101. Municipal Transportation Agency.
- Sec. 8A.102. Governance and Duties.
- Sec. 8A.103. Service Standards and Accountability.
- Sec. 8A.104. Personnel and Merit System.
- Sec. 8A.105. Municipal Transportation Fund.
- Sec. 8A.106. Budget.
- Sec. 8A.107. Municipal Transportation Quality Review.
- Sec. 8A.108. Fare Changes and Route Abandonments.
- Sec. 8A.109. Additional Sources of Revenue.
- Sec. 8A.110. Planning and Zoning.
- Sec. 8A.111. Citizens' Advisory Council.
- Sec. 8A.112. Parking and Traffic; Incorporation Into Agency.
- Sec. 8A.113. Parking and Traffic; Governance.

### SEC. 8A.100. PREAMBLE.

(a) The Municipal Railway and the Department of Parking and Traffic are vital to the economic and social fabric of San Francisco. San Francisco's transit system should be comparable to the best urban transit systems in the world's major cities. Specifically, San Francisco residents require:

1. Reliable, safe, timely, frequent, and convenient service to all neighborhoods;
2. A reduction in breakdowns, delays, overcrowding, preventable accidents;
3. Clean and comfortable vehicles and stations, operated by competent, courteous, and well trained employees;
4. Support and accommodation of the special transportation needs of the elderly and the disabled;
5. Protection from crime and inappropriate passenger behavior on the Municipal Railway; and
6. Responsive, efficient, and accountable management.

Through this measure, the voters seek to provide the transportation system with the resources, independence and focus necessary to achieve these goals.

The voters find that one of the impediments to achieving these goals in the past has been that responsibility for transportation has been diffused throughout City government. Accordingly, this Article places within the Municipal Transportation Agency the powers and duties relating to transit now vested in other departments, boards, and commissions of the City and County. This Article further requires that, to the extent other City and County agencies provide services to the Municipal Transportation Agency, those departments must give the highest priority to the delivery of such services.

At the same time, this Article is intended to ensure sufficient oversight of the Municipal Transportation Agency by, among other things, preserving the role of the City's Controller as to financial matters, the City Attorney as to legal matters, and the Civil Service Commission, as to merit system issues. In addition, this Article requires that outside audits be performed to ensure that required service levels are obtained with a minimum of waste.

This Article also requires that the Municipal Transportation Agency develop clear, measured performance goals, and publicize both its goals and its performance under those goals. As the workers of the Municipal Transportation Agency are vital to the improvements the voters seek, this Article authorizes incentives for excellence, and requires accountability—for both managers and employees—when performance falls short.

Finally, this Article is intended to strengthen the Municipal Transportation Agency's authority to: 1) manage its employees; 2) establish efficient and economical work rules and work practices that maximize the Agency's responsiveness to public needs; and 3) protect the Railway's right to select, train, promote, demote, discipline, layoff and terminate employees, managers, and supervisors based upon the highest standards of customer service, efficiency and competency.

(b) The Department of Parking and Traffic performs functions vital to the operation of the

Municipal Railway. Congestion on city streets causes delays in transit operations. Therefore, the Municipal Transportation Agency must ensure that transit vehicles move through City streets safely and efficiently.

In addition, the residents of San Francisco require that the Department of Parking and Traffic: 1) value and protect pedestrians and bicyclists; 2) reduce congestion and air pollution through efficient use of the streets; and 3) protect the City's economic health by giving priority to commercial deliveries and access to local businesses.

(c) This Article shall be interpreted and applied in conformance with the above goals. (Added November 1999)

#### **SEC. 8A.101. MUNICIPAL TRANSPORTATION AGENCY.**

(a) There shall be a Municipal Transportation Agency. The Agency shall include a Board of Directors and a Director of Transportation. The Agency shall include the Municipal Railway and the Department of Parking and Traffic, as well as any other departments, bureaus or operating divisions hereafter created or placed under the Agency. There shall also be a Citizens Advisory Committee to assist the Agency.

(b) Effective March 1, 2000, the Agency shall succeed to and assume all powers and responsibilities of the Public Transportation Commission.

(c) Effective July 1, 2000, the Municipal Railway shall become a department of the Agency and the full provisions of this Article shall be applicable.

(d) The Department of Parking and Traffic, upon its incorporation into the Agency pursuant to Section 8A.112, shall become a separate department of the Agency.

(e) The Board of Supervisors shall have the power, by ordinance, to abolish the Taxi Commission created in Section 4.133, and to transfer the powers and duties of that commission to the Agency's Board of Directors.

(f) Any transfer of functions occurring as a result of the above provisions shall not adversely affect the status, position, compensation, or pension or retirement rights and privileges of any civil service employees who engaged in the performance of a function or duty transferred to another office, agency, or department pursuant to this measure.

(g) Except as expressly provided in this Article, the Agency shall comply with all of the restrictions and requirements imposed by the ordinances of the City and County, including ordinances prohibiting discrimination of any kind in employment and contracting, such as Administrative Code Chapters 12B et seq., as amended from time to time. The Agency shall be solely responsible for the administration and enforcement of such requirements.

(h) The Agency may contract with existing City and County departments to carry out any of its powers and duties. Any such contract shall establish performance standards for the department providing the services to the Agency, including measurable standards for the quality, timeliness, and cost of the services provided. All City and County departments must give the highest priority to the delivery of such services to the Agency.

(i) The Agency may not exercise any powers and duties of the Controller or the City Attorney and shall contract with the Controller and the City Attorney for the exercise of such powers and duties. (Added November 1999)

#### **SEC. 8A.102. GOVERNANCE AND DUTIES.**

(a) The Agency shall be governed by a board of seven directors appointed by the Mayor and confirmed after public hearing by the Board of Supervisors. All initial appointments must be made by the Mayor and submitted to the Board of Supervisors for confirmation no later than February 1, 2000. The Board of Supervisors shall act on those initial appointments no later than March, 1, 2000 or those appointments shall be deemed confirmed.

At least four of the directors must be regular riders of the Municipal Railway, and must continue to be regular riders during their terms. The directors must possess significant knowledge of, or professional experience in, one or more of the fields of government, finance, or labor relations. At least two of the directors must possess significant knowledge of, or professional experience in, the field of public transportation. During their terms, all directors shall be required to ride the Municipal Railway on the average once a week.

Directors shall serve four-year terms, provided, however, that two of the initial appointees shall serve for terms ending March 1, 2004, two for terms ending March 1, 2003, two for terms ending March 1, 2002,

and one for a term ending March 1, 2001. Initial terms shall be designated by the Mayor. No person may serve more than three terms as a director. A director may be removed only for cause pursuant to Article XV. The directors shall annually elect a chair. The chair shall serve as chair at the pleasure of the directors. Directors shall receive reasonable compensation for attending meetings of the Agency which shall not exceed the average of the two highest compensations paid to the members of any board or commission with authority over a transit system in the nine Bay Area counties.

(b) The Agency shall:

1. Have exclusive charge of the construction, management, supervision, maintenance, extension, operation, use, and control of all property, as well as the real, personal, and financial assets of the Municipal Railway; and have exclusive authority over contracting, leasing, and purchasing by the Municipal Railway, provided that any Agency contract for outside services shall be subject to Charter Sections 10.104(12) and 10.104(15). Ownership of any of the real property of the City and County shall not be transferred to any private entity pursuant to any such contract;

2. Have the sole power and authority to enter into such arrangements and agreements for the joint, coordinated, or common use with any other public entity owning or having jurisdiction over rights-of-way, tracks, structures, subways, tunnels, stations, terminals, depots, maintenance facilities, and transit electrical power facilities;

3. Have the sole power and authority to make such arrangements as it deems proper to provide for the exchange of transfer privileges, and through-ticketing arrangements, and such arrangements shall not constitute a fare change subject to the requirements of Sections 8A.106 and 8A.108;

4. Have the authority to arrange with other transit agencies for bulk fare purchases, provided that if passenger fares increase as a result of such purchases, the increase shall be subject to review by the Board of Supervisors pursuant to Sections 8A.106 and 8A.108;

5. Notwithstanding Section 2.109, and except, as provided in Sections 8A.106 and 8A.108, have exclusive authority to fix the fares charged by the Municipal Railway and all other rates, fees, and charges for services provided by the Agency;

6. Have the authority to conduct investigations into any matter within its jurisdiction through the power of inquiry, including the power to hold public hearings and take testimony, and to take such action as may be necessary to act upon its findings; and

7. Exercise such other powers and duties as shall be prescribed by ordinance of the Board of Supervisors.

(c) The Agency's board of directors shall:

1. Appoint a director of transportation, who shall serve at the pleasure of the board. The director shall be employed pursuant to an individual contract. His or her compensation shall be comparable to the compensation of the chief executive officers of the public transportation systems in the United States which the directors, after an independent survey, determine most closely resemble the Agency in size, mission, and complexity. In addition, the Agency shall provide an incentive compensation bonus plan for the director of transportation based upon the Agency's achievement of the milestones adopted pursuant to Section 8A.103.

2. Appoint an executive secretary who shall be responsible for administering the affairs of the directors and who shall serve at the pleasure of the board.

(d) The director of transportation shall appoint all subordinate personnel of the Agency, including a deputy director for the Municipal Railway, and, upon its incorporation into the Agency, a deputy director for Parking and Traffic. The deputy directors shall serve at the pleasure of the director of transportation. The director of transportation may serve as the deputy director for the Municipal Railway, but shall not be entitled to any greater compensation or benefits on that basis.

(e) Upon recommendation of the city attorney and the approval of the board of directors, the city attorney may compromise, settle, or dismiss any litigation, legal proceedings, claims, demands or grievances which may be pending for or on behalf of, or against the Agency relative to any matter or property solely under the Agency's jurisdiction. Unlitigated claims or demands against the Agency shall be handled as set forth in Charter Section 6.102. Any payment pursuant to the compromise, settlement, or dismissal of such litigation, legal proceedings, claims, demands, or grievances, unless otherwise



specified by the Board of Supervisors, shall be made from the Municipal Transportation Fund.

(f) The Agency's board of directors, and its individual members, shall deal with administrative matters solely through the director of transportation or his or her designees. Any dictation, suggestion, or interference by a director in the administrative affairs of the Agency, other than through the director of transportation or his or her designees, shall constitute official misconduct; provided, however, that nothing herein contained shall restrict the directors' powers of hearing and inquiry as provided in this Section.

(g) Except to the extent otherwise provided in this Article, the Agency shall be subject to the provisions of this Charter applicable to boards, commissions, and departments of the City and County, including Sections 2.114, 3.105, 4.101, 4.103, 4.104, 4.113, 9.118, 16.100, and A8.346. Sections 4.102, 4.126, and 4.132 shall not be applicable to the Agency. (Added November 1999)

#### **SEC. 8A.103. SERVICE STANDARDS AND ACCOUNTABILITY.**

(a) The Municipal Railway shall be restored as soon as practicable to a level of service measured in service hours which is not less than that provided under the schedule of service published in the April 1996 timetable, although not necessarily in that configuration.

(b) No later than July 1, 2000, and by July 1 of each year thereafter, the Agency shall adopt milestones for the achievement of the goals specified in subsections (c) and (d). Milestones shall be adopted for each mode of transportation of the Municipal Railway, and for the Municipal Railway as a whole, with the goal of full achievement of the standards set in subsection (c) no later than July 1, 2004.

(c) The standards for the Agency with respect to the services provided by the Municipal Railway shall include the following minimum standards for on-time performance and service delivery:

1. On-time performance: at least 85 percent of vehicles must run on-time, where a vehicle is considered on-time if it is no more than one minute early or four minutes late as measured against a published schedule that includes time points; and

2. Service delivery: 98.5 percent of scheduled service hours must be delivered, and at least 98.5

percent of scheduled vehicles must begin service at the scheduled time.

(d) The standards for both managers and employees of the Agency with respect to the services, provided by the Municipal Railway shall also include other measurable standards for system reliability, system performance, staffing performance, and customer service, including:

1. Passenger, public, and employee safety and security;

2. Coverage of neighborhoods and equitable distribution of service;

3. Level of crowding;

4. Frequency and mitigation of accidents and breakdowns;

5. Improvements in travel time, taking into account adequate recovery and lay-over times for operators;

6. Vehicle cleanliness, including absence of graffiti;

7. Quality and responsiveness of customer service;

8. Employee satisfaction;

9. Effectiveness of the preventive maintenance program; and

10. Frequency and accuracy of communications to the public.

(e) The performance measures adopted in Section 4 of this measure shall be published as rules of the Agency and utilized to determine the achievement of the performance standards and milestones adopted by the Agency for the Municipal Railway. The performance measures shall be subject to amendment after public hearing by a vote of the Agency board. The Agency shall regularly publish reports on its attainment of those standards and milestones. Nothing herein shall prohibit the Agency from using additional performance measures. (Added November 1999)

#### **SEC. 8A.104. PERSONNEL AND MERIT SYSTEM.**

(a) The Agency shall establish its own personnel/labor relations office. The director of transportation shall appoint a personnel/labor relations manager, who shall serve at the pleasure of the director of transportation.

(b) Except as otherwise provided in this Section, the Agency shall be governed by the rules of the civil

service system administered by the City and appeals provided in civil service rules shall be heard by the City's Civil Service Commission. Unless otherwise agreed by the Agency and affected employee organizations, appeals to the Civil Service Commission shall include only those matters within the jurisdiction of the Civil Service Commission which establish, implement, and regulate the civil service merit system as listed in Section A8.409-3.

(c) Effective July 1, 2000, except for the administration of health services, the Agency shall assume all powers and duties vested in the Department of Human Resources and the Director of Human Resources under Articles X and XI of this Charter in connection with job classifications within the Municipal Railway performing "service-critical" functions. Except for the matters set forth in subsection (f), the Department of Human Resources and the Director of Human Resources shall maintain all powers and duties under Articles X and XI as to all other Agency employees.

(d) On or before April 15, 2000, the Agency shall designate "service-critical" classifications and functions for all existing classifications used by the Municipal Railway; provided, however, that employees in classifications designated as "service-critical" shall continue to be covered by any Citywide collective bargaining agreement covering their classifications until the expiration of that agreement.

(e) For purposes of this Article, "service-critical" functions are:

1. Operating a transit vehicle, whether or not in revenue service;
2. Controlling dispatch of, or movement of, or access to, a transit vehicle;
3. Maintaining a transit vehicle or equipment used in transit service, including both preventive maintenance and overhaul of equipment and systems, including system-related infrastructure;
4. Regularly providing information services to the public or handling complaints; and
5. Supervising or managing employees performing functions enumerated above.

The Agency shall consult with affected employee organizations before designating particular job classifications as performing "service-critical" functions. If an employee organization disagrees with the Agency's designation of a particular job

classification as "service-critical" pursuant to the above standards, the organization may, within seven days of the Agency's decision, request immediate arbitration. The arbitrator shall be chosen pursuant to the procedures for the selection of arbitrators contained in the memorandum of understanding of the affected employee organization. The arbitrator shall determine only whether the Agency's designation is reasonable based on the above standards. The arbitrator's decision shall be final and binding.

The Agency may designate functions other than those listed above, and the job classifications performing those additional functions, as "service-critical," subject to the consultation and arbitration provisions of this Section. In deciding a dispute over such a designation, the arbitrator shall decide whether the job functions of the designated classes relate directly to achievement of the goals and milestones adopted pursuant to Section 8A.103 and are comparable to the above categories in the extent to which they are critical to service.

(f) In addition, the Agency shall, with respect to all Agency employees, succeed to the powers and duties of the Director of Human Resources under Article X to review and resolve allegations of discrimination, as defined in Article XVII, against employees or job applicants, or allegations of nepotism or other prohibited forms of favoritism; provided, however, that the Agency's resolution of allegations of discrimination must be approved by the City's Director of Human Resources. To the extent resolution of a discrimination complaint or request for accommodation involves matters or employees beyond the Agency's jurisdiction, the Agency shall coordinate with and be subject to applicable determinations of the Director of Human Resources.

(g) The Agency shall be responsible for creating and, as appropriate, modifying Municipal Railway bargaining units for classifications designated by the Agency as "service-critical" and shall establish policies and procedures pursuant to Government Code section 3507 and .3507.1 for creation and modification of such bargaining units. When the Agency creates or modifies a bargaining unit, employees in existing classifications placed in such bargaining unit shall continue to be represented by their current employee organizations.

(h) The Agency may create new classifications



of employees doing specialized work for the Agency. Such classifications shall be subject to the civil service provisions of the Charter unless exempted pursuant to Section 10.104 or subsection (i).

(i) The Agency may create new classifications and positions in those classifications exempt from the civil service system for managerial employees in addition to those exempt positions provided in Section 10.104; provided, however, that the total number of such exempt new positions shall not exceed 1.5 percent of the Agency's total workforce, exclusive of the exempt positions provided in Section 10.104. This provision shall not be utilized to eliminate personnel holding existing permanent civil service managerial positions on November 2, 1999.

Persons serving in exempt managerial positions shall serve at the pleasure of the director of transportation. Such exempt management employees, to the extent they request placement in a bargaining unit, shall not be placed in the same bargaining units as non-exempt employees of the Agency.

(j) The Civil Service Commission shall annually review both exempt and non-exempt classifications of the Agency to ensure compliance with the provisions of subsections (h) and (i).

(k) Upon the expiration of current labor contracts, and except for retirement benefits, the wages, hours, working conditions, and benefits of the employees in classifications within the Municipal Railway designated by the Agency as "service-critical" shall be fixed by the Agency after meeting and conferring as required by the laws of the State of California and this Charter, including Sections A8.346, A8.404 and A8.409. These agreements shall utilize, and shall not alter or interfere with, the health plans established by the City's Health Service Board; provided, however, that the Agency may contribute toward defraying the cost of employees' health premiums. For any job classification that exists both as a "service-critical" classification in the Municipal Railway and elsewhere in City service, the base wage rate negotiated by the Agency for that classification shall not be less than the wage rate set in the Citywide memorandum of understanding for that classification.

(l) Notwithstanding subsection (k), the Agency may, in its sole discretion, utilize the City's collective bargaining agreements with any employee

organization representing less than 10 percent of the Municipal Railway's workforce.

(m) Notwithstanding any limitations on compensation contained in Section A8.404, and in addition to the base pay established in collective bargaining agreements, all agreements negotiated by the Agency relating to compensation for Municipal Railway managers and employees in classifications designated by the Agency as "service-critical" shall provide incentive bonuses based upon the achievement of the service standards in Section 8A.103(c) and other standards and milestones adopted pursuant to Section 8A.103. Such agreements may provide for additional incentives based on other standards established by the Agency, including incentives to improve attendance. The Agency shall also establish a program that provides incentive bonuses for all managers, including all managers exempt from the civil service system, based on the achievement of these standards and milestones.

(n) For employees whose wages, hours and terms and conditions of employment are set by the Agency pursuant to Sections A8.404 or A8.409 et seq., the Agency shall exercise all powers of the City and County, the Board of Supervisors, the Mayor, and the Director of Human Resources under those sections. For employees covered by Section A8.409 et seq., the mediation/arbitration board set forth in Section A8.409-4 shall consider the following additional factors when making a determination in any impasse proceeding involving the Agency: the interests and welfare of transit riders, residents, and other members of the public; and the Agency's ability to meet the costs of the decision of the arbitration board without materially reducing service. The Agency shall perform the functions of the Civil Service Commission with respect to certification of the average of the two highest wage schedules for transit operators in comparable jurisdictions pursuant to Section A8.404(a), and conduct any actuarial study necessary to implement Section A8.404(f).

(o) The voters find that unscheduled employee absences adversely affect customer service. Accordingly, not later than January 1, 2001, the agency shall create a comprehensive plan for the reduction of unscheduled absences. In addition, the Agency shall take all legally permitted steps to

eliminate unexcused absences. The Agency shall have no authority to approve any memorandum of understanding or other binding agreement which restricts the authority of the Agency to administer appropriate discipline for unexcused absences.

(p) Before adopting any tentative agreement reached as a result of negotiations, mediation or arbitration, the Agency shall, at a duly noticed public meeting, disclose in writing the contents of such tentative agreement, a detailed analysis of the proposed agreement, a comparison of the differences between the agreement reached and the prior agreement, and an analysis of all costs for each year of the term of such agreement. Such tentative agreement between the Agency and employee organization shall not be approved by the Agency until 30 days after the above disclosures have been made. (Added November 1999)

#### **SEC. 8A.105. MUNICIPAL TRANSPORTATION FUND.**

(a) There is hereby established a fund to provide a predictable, stable, and adequate level of funding for the Agency, which shall be called the Municipal Transportation Fund. The fund shall be maintained separate and apart from all other City and County funds. Monies therein shall be appropriated, expended, or used by the Agency solely and exclusively for the operation including, without limitation, capital improvements, management, supervision, maintenance, extension, and day-to-day operation of 1) the Agency; 2) the Municipal Railway; 3) upon its incorporation into the Agency, the Department of Parking and Traffic; and 4) any other division of the Agency subsequently created and performing transportation-related functions. Monies in the Fund may not be used for any other purposes than those identified in this Section.

(b) Beginning with the fiscal year 2000-2001 and in each fiscal year thereafter, there is hereby set, aside to the Municipal Transportation Fund the following:

1. An amount (the "Base Amount") which shall be no less than the amount of all appropriations from the General Fund, including all supplemental appropriations, for the fiscal year 1998-1999 or the fiscal year 1999-2000, whichever is higher (the "Base Year"), adjusted as provided in subsection (c), below,

for (1) the Municipal Railway; and (2) all other City and County commissions, departments and agencies providing services to the Municipal Railway, including the Department of Human Resources and the Purchasing Department, for the provision of those services. The Base Amount for the Department of Parking and Traffic and the Parking Authority shall be established in the same fashion but using fiscal years 2000-2001 and 2001-2002 for the services being incorporated into the Agency.

2. Subject to the limitations and exclusions in Sections 4.113 and 16.110, the revenues of the Municipal Railway, and, upon their incorporation into the Agency, the revenues of the Department of Parking and Traffic, and the Parking Authority; and

3. All other funds received by the City and County from any source, including state and federal sources, for the support of the Municipal Railway.

(c) The Base Amount shall initially be determined by the Controller. Adjustments to the Base Amount shall be made as follows:

1. The Base Amount shall be adjusted for each year after fiscal year 2000-2001 by the Controller based on calculations consistent from year to year, by the percentage increase or decrease in aggregate City and County discretionary revenues. In determining aggregate City and County discretionary revenues, the Controller shall only include revenues received by the City which are unrestricted and may be used at the option of the Mayor and the Board of Supervisors for any lawful City purpose. Errors in the Controller's estimate of discretionary revenues for a fiscal year shall be corrected by adjustment in the next year's estimate.

2. An adjustment shall also be made for any increases in General Fund appropriations to the Agency in subsequent years to provide continuing services not provided in the Base Year, but excluding additional appropriations for one-time expenditures such as capital expenditures or litigation judgments and settlements.

3. Further, when new parking revenues increase due to policy changes in fines, taxes or newly-created positions, the Base Amount shall be reduced by 50 percent of such increase to reduce the Agency's reliance on the General Fund.

(d) The Treasurer shall set aside and maintain the amounts required to be set aside by this Section,

together with any interest earned thereon, in the Municipal Transportation Fund, and any amounts unspent or uncommitted at the end of any fiscal year shall be carried forward, together with interest thereon, to the next fiscal year for the purposes specified in this Article. (Added November 1999)

#### **SEC. 8A.106. BUDGET.**

The Agency shall be subject to the provisions of Article IX of this Charter except:

(a) No later than March 1 of each year, after professional review, public hearing and after receiving the recommendations of the Citizens' Advisory Council, the Agency shall submit its proposed budget for the next fiscal year to the Mayor and the Board of Supervisors for their review and consideration. The Agency shall propose a base budget that is balanced without the need for additional funds over the Base Amount, but may include fare increases and decreases, and reductions or abandonment of service. The Mayor shall submit the base budget to the Board of Supervisors, without change. Should the Agency request additional support over the Base Amount, it shall submit an augmentation request for those funds in the standard budget process and subject to normal budgetary review and amendment.

(b) At the time the budget is adopted, the Agency shall certify that the budget is adequate in all respects to make substantial progress towards meeting the goals, objectives, and performance standards established pursuant to Section 8A.103 for the fiscal year covered by the budget.

(c) No later than August 1, the Board of Supervisors may allow the Agency's base budget to take effect without any action on its part or it may reject but not modify the Agency's base budget by a two-thirds' vote. Any fare or service change proposed in the base budget shall be considered accepted unless rejected by a two-thirds' vote on the entire base budget. Should the Board reject the base budget, it shall make additional interim appropriations to the Agency from the Municipal Transportation Fund sufficient to permit the Agency to maintain all operations through the extended interim period until a base budget is adopted. Any request for augmentation funding shall be approved, modified, or rejected under the general provisions of Article IX. (Added November 1999)

#### **SEC. 8A.107. MUNICIPAL TRANSPORTATION QUALITY REVIEW.**

(a) The Agency shall biennially contract with a nationally recognized management or transportation consulting firm with offices in the City and County for an independent review of the quality of its operations. The contract shall be competitively bid and approved by the Controller and Board of Supervisors. The review shall contain:

1. A detailed analysis of the extent to which the Agency has met the goals, objectives, and performance standards it is required to adopt under Section 8A.103, and the extent to which the Agency is expected to meet those goals, objectives, and performance standards in the two fiscal years for which the review is submitted, and independent verification of the Agency's reported performance under the performance measures adopted pursuant to Section 4 of this measure; and

2. Such recommendations for improvement in the operation of the Agency as the firm conducting the review deems appropriate.

(b) The results of the review shall be presented promptly to the Citizens' Advisory Council, the Agency, the Board of Supervisors, and the Mayor by the reviewing firm; and the Citizens' Advisory Council, the Agency, and the Board of Supervisors shall each promptly hold at least one public hearing thereon. (Added November 1999)

#### **SEC. 8A.108. FARE CHANGES AND ROUTE ABANDONMENTS.**

(a) Any proposed change in fares shall be submitted to the Board of Supervisors as part of the Agency's budget under Section 8A.106, and may be rejected at that time by a two-thirds' vote of the Board.

The Agency shall base any proposed change in Municipal Railway fares on the following criteria:

1. The Municipal Railway's need for additional funds for operations and capital improvements.

2. The extent to which the increase is necessary to meet the goals, objectives, and performance standards previously established by the Agency pursuant to Section 8A.103.



3. The extent to which the Agency has diligently sought other sources of funding for the operations and capital improvements of the Municipal Railway.

4. The need to keep Municipal Railway fares low to encourage maximum patronage.

5. The need to increase fares gradually over time to keep pace with inflation and avoid large fare increases after extended periods without a fare increase.

(b) For purposes of this Article, a "route abandonment" shall mean the permanent termination of service along a particular line or service corridor. If the Agency proposes to abandon a route at any time other than as part of the budget process as provided in Section 8A.106(a), it shall first submit the proposal to the Board of Supervisors. The Board of Supervisors may, after a noticed public hearing, reject the proposed route abandonment by a two-thirds' vote of its members taken within 30 days after the proposal is submitted by the Agency. (Added November 1999)

#### **SEC. 8A.109. ADDITIONAL SOURCES OF REVENUE.**

The Mayor, the Board of Supervisors, and the Agency diligently shall seek to develop new sources of funding for the Agency's operations, including sources of funding dedicated to the support of such operations, which can be used to supplement or replace that portion of the Municipal Transportation Fund consisting of appropriations from the General Fund of the City and County. To the extent permitted by State law, the Agency may submit any proposal for increased or reallocated funding to support all or a portion of the operations of the Agency, including, without limitation, a tax or special assessment, directly to the electorate for approval without the further approval of the Mayor or the Board of Supervisors. The Agency shall be authorized to conduct any necessary studies in connection with considering, developing, or proposing such revenue sources. (Added November 1999)

#### **SEC. 8A.110. PLANNING AND ZONING.**

The planning and zoning provisions of this Charter and the Planning Code as they may be amended from time to time shall apply to all real

property owned or leased by the Agency. (Added November 1999)

#### **SEC. 8A.111. CITIZENS' ADVISORY COUNCIL.**

The Agency shall establish a Citizens' Advisory Council of fifteen members which shall consist of one person appointed by each member of the Board of Supervisors and four members appointed by the Mayor. Each member must be a resident of the City and County. No fewer than ten members of the Council must be regular riders of the Municipal Railway. At least two members must use the Municipal Railway's paratransit system, and at least three of the members must be senior citizens over the age of 60. The membership of the Council shall be reflective of the diversity and neighborhoods of the City and County. The Council may provide recommendations to the Agency with respect to any matter within the jurisdiction of the Agency and shall be allowed to present reports to the Agency's board of directors. The members of the Council shall be appointed to four-year terms and shall serve at the pleasure of their appointing power. Staggered terms for the initial appointees to the Council shall be determined by lot. (Added November 1999)

#### **SEC. 8A.112. PARKING AND TRAFFIC; INCORPORATION INTO AGENCY.**

(a) By July 1, 2001, the Agency and the Department of Parking and Traffic shall prepare and submit to the Mayor and the Board of Supervisors a joint plan for incorporating the Department into the Agency.

(b) Effective July 1, 2002, the Department of Parking and Traffic shall become a separate department of the Municipal Transportation Agency and Charter Section 4.116, establishing the Parking and Traffic Commission, shall be repealed. Effective that date, the Agency shall have all the same powers and duties with respect to the Department of Parking and Traffic that it has with respect to the Municipal Railway, and shall succeed to all powers and duties of the Parking and Traffic Commission.

Effective July 1, 2002, the Agency's board of directors shall also exercise all remaining powers of the Parking and Traffic Commission for all purposes,

including the power of members of the Parking and Traffic Commission to serve ex officio as members of the Parking Authority under Section 32657 of the Streets and Highways Code. The chair of the Agency's board of directors shall designate annually the directors to serve as members of the Parking Authority. Any person may serve concurrently as a member of the Agency's board of directors and as a member of the Parking Authority. It is the policy of the City and County that the Agency exercise all powers vested by State law in the Parking Authority.

(c) Except as provided in subsection (a), no provision of this Article shall apply to the Department of Parking and Traffic prior to July 1, 2002. (Added November 1999)

#### **SEC. 8A.113. PARKING AND TRAFFIC; GOVERNANCE.**

(a) The Agency shall manage the functions of the Department of Parking and Traffic so that the department:

1. Provides priority to transit services in the utilization of streets, particularly during commute hours;
2. Facilitates the design and operation of City streets to enhance alternative forms of transit, such as pedestrian, bicycle, and pooled or group transit (including taxis);
3. Proposes and implements street and traffic changes that gives the highest priority to impacts on public transit, pedestrians, commercial delivery vehicles, and bicycles;
4. Integrates modern information and traffic-calming techniques to promote safer streets and promote usage of public transit; and
5. Develops a safe, interconnected bicycle circulation network.

(b) The Agency shall manage the Parking Authority so that it does not construct new or expanded parking facilities unless the Agency finds that the costs resulting from such construction and the operation of such facilities will not reduce the level of funding to the Municipal Railway from parking and garage revenues under Section 16.110 to an amount less than that provided for fiscal year 1999-2000. (Added November 1999)



## ARTICLE VIII.B. PUBLIC UTILITIES

- Sec. 8B.120. Preamble.
- Sec. 8B.121. Public Utilities Commission.
- Sec. 8B.122. Goals and Objectives Related to Water and Clean Water.
- Sec. 8B.123. Planning and Reporting.
- Sec. 8B.124. Water and Clean Water Revenue Bonds.
- Sec. 8B.125. Rates.
- Sec. 8B.126. Personnel and Merit System.
- Sec. 8B.127. Contracting and Purchasing.

### SEC. 8B.120. PREAMBLE.

The Public Utilities Commission operates the Water, Clean Water and Power Utilities of the City and County of San Francisco. Hetch Hetchy Water and Power System is an irreplaceable asset of the people of the City and County of San Francisco. The system is fundamental to the economic vitality of San Francisco and the Bay Area. The voters of the City and County of San Francisco are committed to preserving and protecting the system as well as safeguarding the extraordinary quality of the water from Yosemite and local watersheds. The voters find that the protection, maintenance and repair of the system are among their highest priorities.

San Francisco faces an unprecedented challenge: to restore its aging water system to ensure a reliable Bay Area water supply through the next century. Repairs must be accomplished as quickly as possible to avoid system outages, which could be caused by natural disasters such as earthquake. In planning for its future needs and those of its wholesale customers, the City must promote water conservation and responsible stewardship of its natural resources. The effectiveness of the City's Public Utilities Commission, which has jurisdiction over the system, is essential to achieving these goals.

In addition, San Francisco must upgrade and repair its clean water system to meet changes in state and federal water quality requirements, and to ensure reliability of the system, parts of which are outdated, aged or seismically vulnerable. The voters find that the operation of the clean water system should not unnecessarily place a disproportionate environmental burden on any community.

This measure is intended to enhance public confidence in the City's stewardship of public utilities by:

1. Clarifying that the Public Utilities Commission has exclusive control of water, clean water and power assets owned or maintained by the City and County of San Francisco;
2. Establishing rates sufficient to meet operation, maintenance and financial needs of the system based on costs and sound budgeting and auditing procedures to protect retail ratepayers and reduce interest paid on bonds and other indebtedness while ensuring public review;
3. Establishing the Public Utilities Commission as an independent revenue department not subject to undue financial pressures to contribute to the City's general fund;
4. Requiring the development of long term Capital, Financial and Strategic Plans to ensure that the utilities are operated efficiently in accordance with best public utility practice;
5. Authorizing the Public Utilities Commission to independently enter into certain contracts;
6. Giving the Public Utilities Commission the ability to finance needed capital improvements through revenue bonds or other financing methods consistent with the powers of other major public utilities in California; and
7. Promoting labor stability to ensure that the Capital Improvement Plan is completed expeditiously and efficiently. (Added November 2002)

## **SEC. 8B.121. PUBLIC UTILITIES COMMISSION.**

(a) Notwithstanding Charter section 4.112, the Public Utilities Commission shall have exclusive charge of the construction, management, supervision, maintenance, extension, expansion, operation, use and control of all water, clean water and energy supplies and utilities of the City as well as the real, personal and financial assets, that are under the Commission's jurisdiction or assigned to the Commission under Section 4.132.

(b) The Public Utilities Commission may enter into Joint Powers Agreements with other public entities in furtherance of the responsibilities of the Commission.

(c) Except to the extent otherwise provided in this Article, the Public Utilities Commission shall be subject to the provisions of Charter sections 4.100 et seq. generally applicable to boards and commissions of the City and County.

(d) The General Manager shall have the authority to organize and reorganize the department. The General Manager shall adopt rules and regulations governing all matters within the jurisdiction of the department subject to section 4.102 as applicable.

(e) Ownership or control of any public utility or any part thereof under the jurisdiction of the Public Utilities Commission may not be transferred or conveyed absent approval by the Public Utilities Commission and approval by a vote of the electors of the City at the election next ensuing not less than 90 days after the adoption of such ordinance, which shall not go into effect until ratified by a majority of the voters voting thereon. Voter approval shall not be required for sales or transfers of real property declared surplus to the needs of any utility by the Public Utilities Commission or to leases or permits for the use of utility real property approved by the Public Utilities Commission. (Added November 2002)

## **SEC. 8B.122. GOALS AND OBJECTIVES RELATED TO WATER AND CLEAN WATER.**

(a) The Commission shall develop, periodically update and implement programs to achieve goals and objectives consistent with the following:

(1) Provide water and clean water services to San Francisco and water service to its wholesale

customers while maintaining stewardship of the system by the City;

(2) Establish equitable rates sufficient to meet and maintain operation, maintenance and financial health of the system;

(3) Provide reliable water and clean water services and optimize the systems' ability to withstand disasters;

(4) Protect and manage lands and natural resources used by the Commission to provide utility services consistent with applicable laws in an environmentally sustainable manner. Operate hydroelectric generation facilities in a manner that causes no reasonably anticipated adverse impacts on water service and habitat;

(5) Develop and implement priority programs to increase and to monitor water conservation and efficiency system-wide;

(6) Utilize state-of-the-art innovative technologies where feasible and beneficial;

(7) Develop and implement a comprehensive set of environmental justice guidelines for use in connection with its operations and projects in the City;

(8) Create opportunities for meaningful community participation in development and implementation of the Commission's policies and programs; and

(9) Improve drinking water quality with a goal of exceeding applicable drinking water standards if feasible. (Added November 2002)

## **SEC. 8B.123. PLANNING AND REPORTING.**

### **(A) Planning and Reporting**

The Public Utilities Commission shall annually hold public hearings to review, update and adopt:

(1) A Long-Term Capital Improvement Program, covering projects during the next 10-year period; including cost estimates and schedules.

(2) A Long-Range Financial Plan, for a 10-year period, including estimates of operation and maintenance expenses, repair and replacement costs, debt costs and rate increase requirements.

(3) A Long-Term Strategic Plan, setting forth strategic goals and objectives and establishing performance standards as appropriate.

The Capital Improvement Program and Long-Range Financial Plan shall serve as a basis and supporting documentation for the Commission's capital

budget, the issuance of revenue bonds, other forms of indebtedness and execution of governmental loans under this Charter.

**(B) Citizens' Advisory Committee**

The Board of Supervisors, in consultation with the General Manager of the Public Utilities Commission, shall establish by ordinance a Citizens' Advisory Committee to provide recommendations to the General Manager of the Public Utilities Commission, the Public Utilities Commission and the Board of Supervisors. (Added November 2002)

**SEC. 8B.124. WATER AND CLEAN WATER REVENUE BONDS.**

Notwithstanding, and in addition to, the authority granted under Charter Section 9.107, the Public Utilities Commission is hereby authorized to issue revenue bonds, including notes, commercial paper or other forms of indebtedness, when authorized by ordinance approved by a two-thirds vote of the Board of Supervisors, for the purpose of reconstructing, replacing, expanding, repairing or improving water facilities or clean water facilities or combinations of water and clean water facilities under the jurisdiction of the Public Utilities Commission.

Any legislation authorizing the issuance of revenue bonds (except for refunding bonds) under this section shall be subject to the referendum requirements of Section 14.102 of this Charter. The ordinance authorizing the issuance of such revenue bonds shall not become effective until 30 days after its adoption.

Notwithstanding any other provision of this Charter or of any ordinance of the City and County, the Board of Supervisors may take any and all actions necessary to authorize, issue and repay such bonds, including, but not limited to, modifying schedules of rates and charges to provide for the payment and retirement of such bonds, subject to the following conditions:

(a) Certification by an independent engineer retained by the Public Utilities Commission that:

- (1) the projects to be financed by the bonds, including the prioritization, cost estimates and scheduling, meet utility standards; and
- (2) that estimated net revenue after payment of operating and maintenance expenses will be sufficient to meet debt service coverage and other indenture or

resolution requirements, including debt service on the bonds to be issued, and estimated repair and replacement costs.

(b) Certification by the San Francisco Planning Department that facilities under the jurisdiction of the Public Utilities Commission funded with such bonds will comply with applicable requirements of the California Environmental Quality Act.

Except as expressly provided in this Charter, all revenue bonds may be issued and sold in accordance with state law or any procedure provided for by ordinance of the Board of Supervisors. (Added November 2002)

**SEC. 8B.125. RATES.**

Notwithstanding Charter sections 2.109, 3.100 and 4.102 or any ordinance (including, without limitation, Administrative Code Appendix 39), the Public Utilities Commission shall set rates, fees and other charges in connection with providing the utility services under its jurisdiction, subject to rejection—within 30 days of submission—by resolution of the Board of Supervisors. If the Board of Supervisors fails to act within 30 days the rates shall become effective without further action.

In setting retail rates, fees and charges the Commission shall:

1. Establish rates, fees and charges at levels sufficient to improve or maintain financial condition and bond ratings at or above levels equivalent to highly rated utilities of each enterprise under its jurisdiction, meet requirements and covenants under all bond resolutions and indentures, (including, without limitation, increases necessary to pay for the retail water customers' share of the debt service on bonds and operating expenses of any state financing authority such as the Regional Water System Financing Authority), and provide sufficient resources for the continued financial health (including appropriate reserves), operation, maintenance and repair of each enterprise, consistent with good utility practice;
2. Retain an independent rate consultant to conduct rate and cost of service studies for each utility at least every five years;
3. Set retail rates, fees and charges based on the cost of service;
4. Conduct all studies mandated by applicable



state and federal law to consider implementing connection fees for water and clean water facilities servicing new development;

5. Conduct studies of rate-based conservation incentives and/or lifeline rates and similar rate structures to provide assistance to low income users, and take the results of such studies into account when establishing rates, fees and charges, in accordance with applicable state and federal laws;

6. Adopt annually a rolling 5-year forecast of rates, fees and other charges; and

7. Establish a Rate Fairness Board consisting of seven members: the City Administrator or his or her designee; the Controller or his or her designee; the Director of the Mayor's Office of Public Finance or his or her designee; two residential city retail customers, consisting of one appointed by the Mayor and one by the Board of Supervisors; and two city retail business customers, consisting of a large business customer appointed by the Mayor and a small business customer appointed by the Board of Supervisors.

The Rate Fairness Board may:

- i. Review the five-year rate forecast;
- ii. Hold one or more public hearings on annual rate recommendations before the Public Utilities Commission adopts rates;
- iii. Provide a report and recommendations to the Public Utilities Commission on the rate proposal; and
- iv. In connection with periodic rate studies, submit to the Public Utilities Commission rate policy recommendations for the Commission's consideration, including recommendations to reallocate costs among various retail utility customer classifications, subject to any outstanding bond requirements.

These provisions shall be effective January 3, 2003 for the setting of retail rates, fees and charges related to the clean water system. If the voters approve bonds for the Public Utilities Commission's Capital Improvement Program at the November 5, 2002 election then the provisions of this section shall take effect on July 2, 2006 for the setting of retail rates, fees and charges related to the water system. If the voters do not approve such bonds then this section will take effect on January 3, 2003. (Added November 2002)

#### **SEC. 8B.126. PERSONNEL AND MERIT SYSTEM.**

(a) The General Manager shall be selected under

the provisions of Charter sections 3.100 and 4.102. The General Manager may be employed under an individual contract. His or her compensation shall be comparable to the compensation of the chief executive officers of the public water, wastewater and/or power systems in the United States that the Commission, after an independent survey, determines most closely resemble the Public Utilities Commission in size, mission, and complexity. In addition, the Public Utilities Commission may provide an incentive compensation bonus plan for the General Manager based on performance goals established by the Commission.

(b) The General Manager may negotiate an individual contract with the employee appointed to perform the duties of general infrastructure management and oversight of the Capital Improvement Program subject to approval by the Commission and notwithstanding Charter Section A8.409 et seq.

(c) For purposes of approving individual employment contracts the Public Utilities Commission may exercise all powers of the City and County, the Board of Supervisors, the Mayor, and the Director of Human Resources under Article XI of this charter. Individual employment contracts shall utilize and shall not alter or interfere with, the Retirement or Vacation provisions of this Charter or the Health Plans established by the City's Health Service Board; provided however, that the Commission may contribute toward defraying the cost of the employee's health premiums and retirement pick-up. (Added November 2002)

#### **SEC. 8B.127. CONTRACTING AND PURCHASING.**

Notwithstanding Charter Section 9.118 or any ordinance, the Public Utilities Commission shall have the sole authority to enter into agreements for the purchase of water; the sale of water to wholesale customers; and agreements necessary to implement Joint Powers Agreements with any wholesale water customer.

In order to promote labor stability and to ensure the Capital Improvement Program is completed expeditiously and efficiently, the Public Utilities Commission is authorized, to the extent legally appropriate, to enter into project labor agreements, with appropriate Building Construction and Trades Councils, covering significant capital projects.

## ARTICLE IX: FINANCIAL PROVISIONS

- Sec. 9.100. Budget Process Ordinances.
- Sec. 9.101. Proposed Annual and Multi-Year Budgets.
- Sec. 9.102. Certification of Revenue Estimates.
- Sec. 9.103. Adoption of Appropriation Ordinances.
- Sec. 9.104. Veto of Appropriations.
- Sec. 9.105. Modifications.
- Sec. 9.106. General Obligation Bonds.
- Sec. 9.107. Revenue Bonds.
- Sec. 9.108. Lease Financing.
- Sec. 9.109. Refunding Bonds.
- Sec. 9.110. Bond Election by Initiative.
- Sec. 9.111. General Authority.
- Sec. 9.111-1. [Repealed]
- Sec. 9.112. Revenue Bonds of the Port Commission.
- Sec. 9.113. General Fiscal Provisions.
- Sec. 9.113.5. Rainy Day Reserve.
- Sec. 9.114. Mission-Driven Budget.
- Sec. 9.115. Departmental Budget Commitments.
- Sec. 9.116. Departmental Savings and Revenue Gains.
- Sec. 9.117. Establishment of Audit Committee of the Board of Supervisors.
- Sec. 9.118. Contract and Lease Limitations.

### SEC. 9.100. BUDGET PROCESS ORDINANCES.

The fiscal year for the City and County shall commence on the first day of July of each year and shall end on the last day of June of the next succeeding year. On or before June 30 of each year, the Board of Supervisors shall, except for equipment and capital improvements, enact an interim appropriation ordinance and not earlier than the 15th day of July, nor later than the first of August of each year, the Board of Supervisors shall adopt the proposed budget as submitted or amended and shall adopt the annual appropriation ordinance accordingly, which shall supersede the interim appropriation ordinance.

The Mayor shall submit and the Board of Supervisors shall act on ordinances with respect to the following:

1. A schedule and procedures for the orderly preparation and submission of the annual proposed budget and for the review and adoption of the necessary interim and final appropriations ordinances;

2. A description of the form of the annual proposed budget and appropriation ordinance consistent with the financial records required by Section 3.105 of this Charter and containing information relating to the type and extent of services to be delivered or revenues to be generated to proposed expenditures in a manner which, to the extent feasible, allows comparison of revenue trends as well as expected performance and expenditures between various fiscal years;

3. A procedure to include public participation in the budgetary process which shall include public hearings conducted by the commissions, Mayor and the Board of Supervisors; and

4. The form, content and dates of submission of the City's Capital Improvements and Facilities Maintenance Budgets. The ordinance relating to Capital Improvement and Facilities Maintenance shall minimally:

(a) Require that such budgets be prepared for more than a single year;

(b) Clearly establish distinctions between major, long term construction, replacement and acquisition projects (Capital Improvements) and short term repair, minor replacement and maintenance projects (Facilities Maintenance);

(c) Be consistent as to the date of submission with the time requirements established for the submission of the budget and appropriation ordinance; and

(d) Provide information regarding the estimated completion schedule for Capital Improvements, the funding source for each and the estimated annual operating costs thereof.



**SEC. 9.101. PROPOSED ANNUAL AND MULTI-YEAR BUDGETS.**

The Mayor shall submit to the Board of Supervisors each year an annual proposed budget, ordinances and resolutions fixing wages and benefits for all classifications and related appropriation ordinances.

The annual proposed budget shall include:

1. Estimated revenues and surpluses from whatever sources, to the extent feasible, for the forthcoming fiscal year and the allocation of such revenues and surpluses to various departments, functions and programs to support expenditures. Proposed expenditures may include such necessary and prudent reserves as recommended by the Controller; and

2. A summary of the annual proposed budget with a narrative description of priorities, services to be provided and economic assumptions used in preparing the revenue estimates. The summary shall also contain a discussion of trends and projections of revenues and expenditures of the City and County for the subsequent four years.

The annual proposed budget and appropriation ordinances shall be balanced so that the proposed expenditures of each fund do not exceed the estimated revenues and surpluses of that fund. If the proposed budget contains new revenue or fees, the Mayor shall submit to the Board of Supervisors the relevant implementing ordinances at the same time the annual budget is submitted.

Until the appropriation ordinances are adopted by the Board of Supervisors, the Mayor may submit to the Board of Supervisors revisions to the annual proposed budget, appropriation ordinances, and ordinances and resolutions fixing wages and benefits.

The Mayor may instruct the Controller to prepare the draft appropriation ordinances.

The Mayor shall file a copy of the annual proposed budget at the Main Library and shall give notice of the budget summary, including making copies available to the public. Upon final approval of the budget by both the Board and the Mayor, notice shall be given of the final budget summary.

The Board of Supervisors by ordinance may require multi-year budget plans and other budget planning strategies to be performed by the several departments and offices of the City and County.

**SEC. 9.102. CERTIFICATION OF REVENUE ESTIMATES.**

The Mayor shall submit to the Controller for review the estimated revenues contained in the annual proposed budget and any subsequent revisions. The Controller shall then provide the Board of Supervisors with an opinion regarding the accuracy of economic assumptions underlying the revenue estimates and the reasonableness of such estimates and revisions.

**SEC. 9.103. ADOPTION OF APPROPRIATION ORDINANCES.**

The Board of Supervisors may amend the annual proposed budget and appropriation ordinances as follows:

1. After review of the Controller's analysis of the Mayor's revenue estimates, the Board of Supervisors may reduce estimated revenues;

2. The Board of Supervisors may increase or decrease any proposed expenditure in the General Fund or any special, sequestered or other fund so long as the aggregate changes do not cause the expenditures from each fund to exceed the amount proposed for expenditures by the Mayor from any such fund; and

3. The Board of Supervisors may increase or decrease any proposed expenditure for Capital Improvements.

**SEC. 9.104. VETO OF APPROPRIATIONS.**

The Mayor may reduce or reject any expenditure authorized by the Board of Supervisors, except appropriations for bond interest, redemption or other fixed charges, within ten days after the adoption of a final annual or supplemental appropriations ordinance. Within ten days of receipt of the Mayor's veto message, the Board of Supervisors may reinstate, in whole or in part, any expenditure reduced or rejected by the Mayor by a vote of two-thirds of its members. In overriding any Mayoral veto, the Board of Supervisors shall not cause the aggregate expenditures for the General Fund or any special, sequestered or other fund in the appropriation ordinances to exceed the Mayor's revenue estimate as allocated to such funds.

**SEC. 9.105. MODIFICATIONS.**

The Board of Supervisors may authorize the Controller, upon the request of the Mayor, other

officials, boards or commissions of the City and County to transfer previously appropriated amounts within the same fund within the same governmental unit without approval of the Board of Supervisors.

Amendments to the appropriations ordinance, as finally adopted, may be initiated by the Mayor or a member of the Board of Supervisors and adopted in the same manner as other ordinances. No amendment to the appropriations ordinance may be adopted unless the Controller certifies availability of funds.

Any appropriation contained in an emergency ordinance shall be deemed to be an amendment to the final appropriations ordinance.

#### **SEC. 9.106. GENERAL OBLIGATION BONDS.**

The Board of Supervisors is hereby authorized to provide for the issuance of general obligation bonds in accordance with the Constitution of the State of California. General obligation bonds may be issued and sold in accordance with state law or any local procedure adopted by ordinance. There shall be a limit on outstanding general obligation bond indebtedness of three percent of the assessed value of all taxable real and personal property, located within the City and County.

#### **SEC. 9.107. REVENUE BONDS.**

The Board of Supervisors is hereby authorized to provide for the issuance of revenue bonds. Revenue bonds shall be issued only with the assent of a majority of the voters upon any proposition for the issuance of revenue bonds, except that no voter approval shall be required with respect to revenue bonds:

1. Approved by three-fourths of all the Board of Supervisors if the bonds are to finance buildings, fixtures or equipment which are deemed necessary by the Board of Supervisors to comply with an order of a duly constituted state or federal authority having jurisdiction over the subject matter;
2. Approved by the Board of Supervisors prior to January 1, 1977;
3. Approved by the Board of Supervisors if the bonds are to establish a fund for the purpose of financing or refinancing for acquisition, construction or rehabilitation of housing in the City and County;

4. Authorized and issued by the Port Commission for any Port-related purpose and secured solely by Port revenues, or authorized and issued for any Airport-related purpose and secured solely by Airport revenues;

5. Issued for the purposes of assisting private parties and not-for-profit entities in the financing and refinancing of the acquisition, construction, reconstruction or equipping of any improvement for industrial, manufacturing, research and development, commercial and energy uses or other facilities and activities incidental thereto, provided the bonds are not secured or payable from any monies of the City and County or its commissions.

6. Issued for the purpose of the reconstruction or replacement of existing water facilities or electric power facilities or combinations of water and electric power facilities under the jurisdiction of the Public Utilities Commission, when authorized by resolution adopted by a three-fourths affirmative vote of all members of the Board of Supervisors.

7. Approved and authorized by the Board of Supervisors and secured solely by an assessment imposed by the City.

8. Issued to finance or refinance the acquisition, construction, installation, equipping, improvement or rehabilitation of equipment or facilities for renewable energy and energy conservation.

Except as expressly provided in this Charter, all revenue bonds may be issued and sold in accordance with state law or any procedure provided for by ordinance. (Amended November 2001)

#### **SEC. 9.108. LEASE FINANCING.**

The City and County may enter into lease financing agreements only with the assent of the majority of the voters voting upon any proposition for the authorization of the lease financing. As used in this section, lease financing shall mean any lease or sublease made between the City and County and any public agency or authority, a non-profit corporation or a retirement system for the purpose of financing the acquisition, construction or improvement by the City and County of real property or equipment.

The requirements of this section do not apply to:

1. Any lease financing which was approved in fact or in principle by a resolution or ordinance adopted by the Board of Supervisors prior to April 1, 1977; provided, that if the resolution or ordinance approved the lease financing only in principle, the resolution or ordinance must describe in general terms the public improvements or equipment to be financed; or

2. The amendment or the refunding of a lease financing which is expected to result in net savings in rental payments to the City and County on a present value basis, calculated as provided by ordinance; or

3. Lease financing involving a nonprofit corporation established for the purpose of this subsection for the acquisition of equipment, the obligations or evidence of indebtedness with respect to which shall not exceed in the aggregate at any point in time a principle amount of \$20 million, such amount to be increased by five percent each fiscal year commencing with fiscal year 1990-1991; provided, however, that prior to each sale of such obligations or evidence of indebtedness, the Controller certifies that in his or her opinion the net interest cost to the City will be lower than other financings involving a lease or leases.

#### **SEC. 9.109. REFUNDING BONDS.**

The Board of Supervisors is hereby authorized to provide for the issuance of bonds of the City and County for the purpose of refunding any general obligation or revenue bonds of the City and County then outstanding. No voter approval shall be required for the authorization, issuance and sale of refunding bonds, which are expected to result in net debt service savings to the City and County on a present value basis, calculated as provided by ordinance.

#### **SEC. 9.110. BOND ELECTION BY INITIATIVE.**

Proceedings for the authorization and issuance of bonds for the acquisition, construction or completion of any public utility or utilities may be initiated by electors in the following manner: Whenever a petition,

signed by qualified electors of the City and County equal in number to at least fifteen percent of the votes cast for all candidates for Mayor at the last proceeding general municipal election for Mayor, requesting the Board of Supervisors to submit to the voters of the City and County a proposition or propositions for incurring bonded indebtedness for the acquisition, construction or completion of any public utility or utilities shall be filed with the director of elections, the Board of Supervisors shall submit to the voters the proposition or propositions for incurring bonded indebtedness of the City and County for purpose or purposes set forth in that petition at the next general municipal, statewide or special municipal election.

#### **SEC. 9.111. GENERAL AUTHORITY.**

Except as otherwise expressly provided in this Charter, the City and County and its commissions shall have the authority to incur and refund indebtedness as provided by and pursuant to the general laws of the state as such laws are in force at the time any indebtedness is created or refunded by the City and County or its commissions. The Controller certifications required by Sections 3.105 and 9.113 shall not apply to any indebtedness, financing leases or agreements for an exchange of payments based upon interest rates which are entered into in connection with any indebtedness or financing leases, provided that the Controller first certifies that sufficient unencumbered balances are expected to be available in the proper fund to meet all payments under such obligations as they become due. (Amended June 2, 1998)

Sec. 9.111-1

(Added June 1998; repealed November 2002)

#### **SEC. 9.112. REVENUE BONDS OF THE PORT COMMISSION.**

The Port Commission shall have the exclusive power to perform or accomplish issuance of revenue bonds for Port-related purposes, as provided in Section B7.305 of this Charter.

*[Section 9.113 begins on page 45.]*



**SEC. 9.113. GENERAL FISCAL PROVISIONS.**

(a) Unused and unencumbered appropriations or unencumbered balances existing at the close of any fiscal year in revenue or expense appropriations of the City and County for any such fiscal year, but exclusive of revenue or money required by law to be held in school, bond, bond interest, bond redemption, pension, trust, utility or other specific funds, or to be devoted exclusively to specified purposes other than annual appropriations, and together with revenues collected or accruing from any source during such fiscal year, in excess of the estimated revenue from such source as shown by the annual budget and the appropriation ordinance for such fiscal year, shall be transferred by the Controller, at the closing of such fiscal year, to the General Fund.

(b) In the event that funds are not available to meet authorized expenditures, the Treasurer, upon the recommendation of the Controller, is authorized to transfer monies among funds held by the Treasurer in the pooled funds of the City and County which are legally available for such a purpose, except a pension fund. The Treasurer and the Controller shall set the terms and conditions of the transfer, taking into account the requirements and nature of the fund from which the transfer was made. All monies transferred pursuant to this Section shall accrue interest at not less than the then current rate of interest earned by the Treasurer on the pooled funds of the City and County. In no event shall the Controller or the Treasurer cause any transfer of monies pursuant to this Section if said transfer would be inconsistent with the terms and conditions of any outstanding bonded indebtedness of the City and County, including any of its boards or commissions.

(c) In the event the Mayor or a member of the Board of Supervisors recommends a supplemental appropriation ordinance after the adoption of the budget for any fiscal year and prior to the close of the fiscal year containing any item which had been rejected by the Mayor in his/her review of departmental budget estimates for the fiscal year or which had been rejected by the Board of Supervisors in its consideration of the Mayor's proposed budget for the fiscal year, it shall require a vote of two-thirds of all members of the Board of Supervisors to approve such supplemental appropriation ordinance.

(d) No ordinance or resolution for the expenditure of money, except the annual appropriation ordinance, shall be passed by the Board of Supervisors unless the Controller first certifies to the Board that there is a sufficient unencumbered balance in a fund that may legally be used for such proposed expenditure, and that, in the judgment of the Controller, revenues as anticipated in the appropriation ordinance for such fiscal year and properly applicable to meet such proposed expenditures will be available in the treasury in sufficient amount to meet the same as it becomes due.

(e) The Board of Supervisors shall have the power to borrow money by the issuance of tax anticipation notes, temporary notes, commercial paper, or any other short-term debt instruments in the manner provided by state law or City ordinance.

(f) Annual appropriations shall expire at the end of the fiscal year and the City shall have no authority to expend funds from such appropriations unless and until the Board of Supervisors adopts a new budget, interim budget, or supplemental appropriation for such expenditures.

(g) No City monies shall be drawn from the treasury of the City and County, nor shall any obligation for the expenditure of any money be incurred, except in pursuance of appropriations or transfers made as provided in the Charter and the Administrative Code. (Amended November 2003)

**SEC. 9.113.5. RAINY DAY RESERVE.**

(a) There shall be a Rainy Day Reserve (the Reserve), which may also be known as an economic stabilization reserve.

**Allocations to the Reserve**

(b) If the Controller projects that total General Fund revenues for the upcoming budget year will exceed total General Fund revenues for the current year by more than five percent, the budget shall allocate the anticipated General Fund revenues in excess of that five percent growth (the excess revenues) as follows:

- (i) 50 percent of the excess revenues to the Reserve;
- (ii) 25 percent of the excess revenues to capital and other one-time expenditures; and,

(iii) 25 percent of the excess revenues to any lawful governmental purpose.

(c) Total monies in the Reserve may not exceed 10 percent of actual total general fund revenues, as stated in the City's most recent independent annual audit. The budget shall allocate excess revenues that would otherwise be allocated to the Reserve above the 10 percent cap instead to capital and other one-time expenditures.

(d) The Mayor and the Board of Supervisors may, at any time, appropriate monies from the capital and other one-time expenditures allocation for capital projects or for expenditures such as, but not limited to, acquisition of equipment or information systems.

(e) The Mayor and the Board of Supervisors may, at any time, appropriate monies from the general purpose allocation for any lawful governmental purpose.

#### **Withdrawals from the Reserve**

(f) If the Controller projects that total General Fund revenues for the upcoming budget year will be less than the current year's total General Fund revenues, or the highest of any other previous year's total General Fund revenues, the budget may appropriate up to 50 percent of the current balance in the Reserve, but no more than the shortfall in total General Fund revenues, for any lawful governmental purpose in the upcoming budget year.

(i) If the trigger for withdrawals from the Reserve was not met in the current year, the Controller shall calculate the shortfall for the upcoming budget year by subtracting the total projected General Fund revenues for the upcoming budget year from the total projected General Fund revenues for the current year.

(ii) If the trigger for withdrawals from the Reserve was met in the current year, the shortfall shall be calculated by subtracting the total projected General Fund revenues for the upcoming budget year from the highest of any previous year's total General Fund revenues, plus two percent for each intervening year.

#### **Adjustments**

(g) If the City made appropriations from the Reserve in the current year and in the immediately preceding budget year pursuant to subsection (f), the City is not required to allocate any anticipated excess revenues to the Reserve or to capital and other one-time expenditures for the upcoming budget year.

(h) If the Controller projects that the Consumer Price Index for the upcoming budget year shall exceed the index for the current year by more than five percent, the trigger for allocations to the Reserve as set forth in Subparagraph (b) above shall instead be the percentage of growth in the index plus two percent. If the Controller projects that the Consumer Price Index for the upcoming budget year shall be less than the index for the current year, the trigger for withdrawals from the Reserve as set forth in Subparagraph (f) above shall instead be the percentage of negative growth in the index. The Controller shall use for these purposes the San Francisco All Items Consumer Price Index for All Urban Consumers (CPI-U), or its successor, as reported by the U.S. Department of Labor's Bureau of Labor Statistics.

(i) If the Board of Supervisors or the voters take an action that changes the amount of total General Fund revenues in any material manner, such as reducing a tax or imposing a new fee, the revenue changes caused by that action will not be counted as part of the triggers for allocations to or withdrawals from the Reserve during the year or years in which the action is first implemented.

(j) In conjunction with the year-end close of the budget, the Controller shall reconcile the revenue projections triggering any budgeted allocations to or withdrawals from the Reserve with actual revenue results, as stated in the City's independent annual audit for the years in question, and rebalance the Reserve, the capital and other one-time expenditures allocation, and the general purpose allocation accordingly.

#### **Withdrawals for the Benefit of the Unified School District**

(k) If the Controller projects that inflation-adjusted per-pupil revenues for the San Francisco Unified School District will be reduced in the upcoming budget year and the School District has noticed a significant number of layoffs, the Board of



Supervisors and the Mayor may, in their discretion, appropriate funds from the Reserve to the School District to offset the costs of maintaining education during the upcoming budget year. Such appropriations may not exceed the dollar value of the total decline in inflation-adjusted per-pupil revenues for the year, or 25 percent of the Reserve balance, whichever is lower. If the triggers for withdrawals from the Reserve for the benefit of the School District were met in the current year, the decline in per-pupil revenues shall be calculated by subtracting the inflation-adjusted per-pupil revenues for the upcoming budget year from the highest of any previous year's inflation-adjusted per-pupil revenues, plus two percent for each intervening year.

#### **Transition**

(l) On the effective date of this Section, the Controller shall transfer all monies in the City's Cash Reserve to the Rainy Day Reserve.

(m) For purposes of initial implementation of this Section, the Mayor and the Board of Supervisors may make appropriations from the Reserve for the 2004-2005 budget year and subsequent years if the Controller certifies that the trigger for withdrawal in subsection (f) would have been met during the 2003-2004 budget year, if this Section had been in effect at that time; provided, however, that the City shall not be required to make allocations of any anticipated excess revenues to the Reserve or to capital and other one-time expenditures for the 2004-2005 budget year. (Added November 2003)

#### **SEC. 9.114. MISSION-DRIVEN BUDGET.**

Each departmental budget shall describe each proposed activity of that department and the cost of that activity. In addition, each department shall provide the Mayor and the Board of Supervisors with the following details regarding its budget:

1. The overall mission and goals of the department;
2. The specific programs and activities conducted by the department to accomplish its mission and goals;
3. The customer(s) or client(s) served by the department;

4. The service outcome desired by the customer(s) or client(s) of the department's programs and activities;

5. Strategic plans that guide each program or activity;

6. Productivity goals that measure progress toward strategic plans;

7. The total cost of carrying out each program or activity; and

8. The extent to which the department achieved, exceeded or failed to meet its missions, goals, productivity objectives, service objectives, strategic plans and spending constraints identified in subsections (1) through (6) during the prior year.

Departmental budget estimates shall be prepared in such form as the Controller, after consulting with the Mayor, directs in writing.

#### **SEC. 9.115. DEPARTMENTAL BUDGET COMMITMENTS.**

It shall be the duty of each officer, department head, board or commission ultimately responsible for the management of each department to certify to the Mayor and the Board of Supervisors his/her commitment to perform the programs and activities with specified levels of performance for specified costs as outlined in the budget description and other information required by Section 9.114.

#### **SEC. 9.116. DEPARTMENTAL SAVINGS AND REVENUE GAINS.**

Within 30 days of the Controller's issuance of the combined annual financial report of the City and County, the Controller shall report to the Mayor and Board of Supervisors regarding the extent to which each department in the prior fiscal year has recovered additional revenues measured by the difference between projected and experienced revenues. It shall be City policy for the Mayor and Board of Supervisors, upon receipt of this report, through the supplemental appropriations process to give serious consideration to rewarding those departments that the Controller has certified pursuant to this section exceeded their revenue goals or met or exceeded departmental operational goals expending less than has been projected in the budget.

**SEC. 9.117. ESTABLISHMENT OF AUDIT COMMITTEE OF THE BOARD OF SUPERVISORS.**

On or before the operative date of this Charter and until this requirement is changed by the Board of Supervisors, the Board of Supervisors shall establish through its rules an Audit Committee.

The Audit Committee shall:

1. Maintain a direct and separate line of communication between the Board of Supervisors and the City and County's independent auditor;

2. Meet with the independent auditor to review the audited annual financial statement and the auditor's report on such matters as the quality and depth of management and compliance;

3. Recommend appropriate action to be taken by the Board of Supervisors to implement recommendations contained in the audit report;

4. Follow up, as necessary, to ensure that approved recommendations are promptly implemented; and

5. Perform other duties as assigned by the Board of Supervisors.

**SEC. 9.118. CONTRACT AND LEASE LIMITATIONS.**

(a) Unless otherwise provided for in this Charter, contracts entered into by a department, board or commission having anticipated revenue to the City and County of one million dollars or more, or the modification, amendment or termination of any contract which when entered into had anticipated revenue of one million dollars or more, shall be subject to approval of the Board of Supervisors by resolution.

(b) Unless otherwise provided for in this Charter, and with the exception of construction contracts entered into by the City and County, any other contracts or agreements entered into by a department, board or commission having a term in excess of ten years, or requiring anticipated expenditures by the City and County of ten million dollars, or the modification or amendments to such contract or agreement having an impact of more than \$500,000 shall be subject to approval of the Board of Supervisors by resolution.

(c) Unless otherwise provided for in this Charter, any lease of real property for a period of ten or more years, including options to renew, or having anticipated revenue to the City and County of one million dollars or more; the modification, amendment or termination of any lease, which when entered into was for a period of ten or more years, including options to renew, or had anticipated revenue to the City and County of one million dollars or more; and any sale or other transfer of real property owned by the City and County, shall first be approved by resolution of the Board of Supervisors. Leases of property under the jurisdiction of the Port Commission for maritime use shall be exempt from the requirements of this section. (Amended November 1997)

## ARTICLE X: PERSONNEL ADMINISTRATION

- Sec. 10.100. Civil Service Commission.
- Sec. 10.101. General Powers and Duties.
- Sec. 10.102. Department of Human Resources.
- Sec. 10.103. Human Resources Director.
- Sec. 10.104. Exclusions from Civil Service Appointment.
- Sec. 10.105. Provisional Appointments.

### SEC. 10.100. CIVIL SERVICE COMMISSION.

There is hereby established a Civil Service Commission which is charged with the duty of providing qualified persons for appointment to the service of the City and County.

The Commission shall consist of five members appointed by the Mayor, pursuant to Section 3.100, for six-year terms. Not less than two members of the Commission shall be women.

The persons so appointed shall, before taking office, make under oath and file in the office of the County Clerk the following declaration: "I am opposed to appointments to the public service as a reward for political activity and will execute the office of Civil Service Commissioner in the spirit of this declaration."

A commissioner may be removed only upon charges preferred in the same manner as in this Charter provided for elective officers.

The regular meetings of the Commission shall be open to the public and held at such a time as will give the general public and employees of the City and County adequate time within which to appear before the Commission after the regular daily working hours of 8:00 a.m. to 5:00 p.m. Such person or persons shall be given an opportunity to be heard by the Commission before final action is taken in any case involving such person or persons.

### SEC. 10.101. GENERAL POWERS AND DUTIES.

The Civil Service Commission shall adopt rules,

policies and procedures to carry out the civil service merit system provisions of this charter and, except as otherwise provided in this Charter, such rules shall govern applications; examinations; eligibility; duration of eligible lists; certification of eligibles; leaves of absence for employees and officers; appointments; promotions; transfers; resignations; lay-offs or reduction in force, both permanent and temporary, due to lack of work or funds, retrenchment or completion of work; the designation and filling of positions, as exempt, temporary, provisional, part-time, seasonal or permanent; status and status rights; probationary status and the administration of probationary periods, except duration; pre-employment and fitness for duty medical examinations, except for the conditions under which referrals for fitness for duty examinations will be made, and the imposition of new requirements; classification; conflict of interest; and such other matters as are not in conflict with this Charter; provided, however, that the minimum rule for the certification of eligibles shall be the Rule of Three Scores, and provided further that rules for leave due to illness or disability shall be approved by the Board of Supervisors. Changes to the rules may be proposed by members of the Commission, the Executive Assistant or the Human Resources Director and approved or rejected by the Commission. The Commission may, upon ten days' notice, make changes in the rules, which changes shall thereupon be printed and be in force; provided that no such changes in rules shall affect a case pending before the Commission.

The Commission shall have power to institute and prosecute legal proceedings for violations of any civil service merit system or Department of Human Resources provisions of this Charter.

The Commission shall establish an inspection service for the purpose of investigating the conduct or an action of appointees in all positions and of securing

records of service for promotion and other purposes. All departments shall cooperate with the Commission in making its investigations and any person hindering the Commission or its agents shall be subject to suspension.

The Commission shall by rule establish procedures to review and resolve allegations of discrimination as defined in Article XVII of this Charter or otherwise prohibited nepotism or favoritism appealed to it pursuant to this section. The determination reached under Commission procedures shall be final and shall forthwith be enforced by every employee and officer.

The Commission shall have the power to inquire into the operation of the civil service merit system to ensure compliance with merit principles and rules established by the Commission. After such inquiry, the Commission may direct the Human Resources Director to take such action as the Commission believes necessary to carry out the civil service provisions of this Charter. In any hearing conducted by the Commission or by any hearing officer it appoints pursuant to this section, the Commission or the hearing officer shall have the power to subpoena and require the attendance of witnesses and the production of records.

The Commission may require periodic reports from the Human Resources Director in a manner and form which it shall prescribe.

The Commission may hear appeals from an action of the Human Resources Director in accordance with its rules, including but not limited to:

1. Allegations of discrimination as defined in Article XVII of this Charter. Notwithstanding any other provisions of this Charter except the fiscal provisions hereof, the decision of the Commission regarding allegations of discrimination shall forthwith be enforced by every officer and employee;

2. Allegations of fraud; and

3. Allegations of conflict of interest.

No action by the Human Resources Director which is the subject of any appeal shall be stayed during the appeal process except by a majority vote of the Civil Service Commission.

The Commission shall have the power and it shall be its duty to appoint an executive assistant to be the administrative head of the affairs under its control who

shall serve at its pleasure; provided, however, that any person who has Civil Service status in the position of executive assistant to the Commission on the effective date of this section as amended shall continue to have Civil Service status in the position of executive assistant under the Civil Service provisions of this Charter. The executive assistant shall periodically report to the Commission on operation of the civil service merit system and may make recommendations to the Civil Service Commission regarding its rules, policies and procedures.

## **SEC. 10.102. DEPARTMENT OF HUMAN RESOURCES.**

The Department of Human Resources shall consist of a Human Resources Director and such employees as may be necessary to carry out its functions and duties.

Pursuant to and in accordance with policies, rules and procedures of the Civil Services Commission governing the merit system, the Department of Human Resources shall be the personnel department for the City and County and shall determine appointments on the basis of merit and fitness as shown by appropriate test and, except as specifically set forth in this Charter, shall perform all tests, duties and functions previously performed by the Civil Service Commission, including but not limited to authority to recruit, select, certify, appoint, train, evaluate, promote career development, classify positions, administer salaries, administer employee discipline, discharge and other related personnel activities in order to maintain an effective and responsive work force.

The Department of Human Resources shall be responsible for coordination of all state, local and federal health and safety mandates, programs and requirements relating to employees including but not limited to industrial hygiene programs, health and safety programs, OSHA compliance and return to work programs. Department heads shall coordinate such activities of employees under their jurisdiction with the Human Resources Director.

The Department of Human Resources shall be responsible for policy, management and administration of the worker's compensation program and shall review and determine all applications for disability leave.



Subject to Section 11.100 hereof, the Department of Human Resources shall be responsible for management and administration of all labor relations of the City and County.

Except for the purpose of inquiry, the Mayor shall deal with the administration of the civil service merit system solely through the Human Resources Director and the Civil Service Commission or their designees. The Mayor shall not dictate, suggest or interfere with the merit system activities of the Civil Service Commission or Human Resources Department. Administrative matters shall be dealt with only in the manner provided by this Charter, and any dictation, suggestion or interference herein prohibited shall constitute official misconduct; provided that nothing herein contained shall restrict the power of hearing and inquiry as provided in this Charter. (Amended November 2004)

#### **SEC. 10.103. HUMAN RESOURCES DIRECTOR.**

A Human Resources Director shall be selected by the Mayor from candidates nominated by the Civil Service Commission and confirmed by vote of the Board of Supervisors. The Human Resources Director shall possess not less than ten years professional experience in personnel, human resources management, labor or employee relations at least five years of which must be in federal, state or local governmental personnel management and such other qualifications as determined by the Commission. Notwithstanding any other provisions of this Charter, the Human Resources Director shall be appointed by and serve at the pleasure of the Mayor, provided that the Mayor's removal of the Human Resources Director may be rejected by a four-fifths vote of the Commission. Failure of the Commission to act within 30 days shall be deemed approval of the Mayor's action. The nominee of the Mayor may be appointed acting Human Resources Director pending confirmation. The person so appointed shall, before taking office, make under oath and file in the Office of the County Clerk the following declaration: "I am opposed to appointments to the public service as a reward for political activity and will execute the

Office of Human Resources Director in the spirit of this declaration."

The appointment of the Director of the Human Resources Department as of the effective date of this Charter shall be effective until July 1, 1996, after which time he may be reappointed to the position in accordance with the appointment method provided herein.

The Human Resources Director shall have full power to administer the affairs of the Department. He or she shall have all powers of a department head and may appoint a Director of Employee Relations, an executive assistant and one confidential secretary, each of whom shall be exempt from the civil service provisions of this Charter, to assist in the administration and management of the functions of the department.

The Human Resources Director shall review and resolve allegations of discrimination as defined in Article XVII of this Charter against employees or applicants, or otherwise prohibited nepotism or favoritism. Notwithstanding any other provisions of this Charter except the fiscal provisions hereof, the decision of the Human Resources Director shall forthwith be enforced by every employee and officer, unless the decision is appealed to the Commission in accordance with Section 10.101.

The Human Resources Director shall investigate all employee complaints concerning job-related conduct of City and County employees and shall promptly report to the source of the complaint.

The Human Resources Director shall promote effective and efficient management through personnel programs that encourage productivity, job satisfaction and exemplary performance.

The Human Resources Director shall provide a procedure for resolution of employee disputes which shall be consistent with other provisions of this Charter and shall be utilized by all department heads and appointing officers in the absence of an applicable grievance procedure in a binding labor agreement.

The Human Resources Director shall verify that all persons whose names appear on City and County payrolls have been legally appointed to or employed in positions legally established under this Charter. The

Controller shall not draw his or her warrant for any claim for salary, wages or compensation which has been disapproved by the Human Resources Director.

Consistent with the foregoing and other applicable provisions of this Charter, the Human Resources Director may delegate to the various appointing officers appropriate personnel responsibilities, and shall consult with appointing officers with respect to Civil Service Commission rules affecting their operations.

The Human Resources Director shall establish a system of job classification. The decision of the Human Resources Director regarding classification matters shall be final unless appealed to the Commission; provided, however, that nothing herein shall be construed to alter the scope of bargaining set forth in the following sections of the 1932 Charter: 8.400, 8.403, 8.404, 8.405, 8.407-1, 8.409 et seq. and 8.590-1 et seq.

The allocation or reallocation of a position shall not adversely affect the civil service rights of an occupant regularly holding such position. No person shall hold a position outside of the classification to which the person has been appointed, provided that every employee of any department or office shall discharge any of the duties pertaining to such department or office to which the employee's department head may temporarily assign the employee. (Amended November 2004)

#### **SEC. 10.104. EXCLUSIONS FROM CIVIL SERVICE APPOINTMENT.**

All employees of the City and County shall be appointed through competitive examination unless exempted by this Charter. The following positions shall be exempt from competitive civil service selection, appointment and removal procedures, and the person serving in the position shall serve at the pleasure of the appointing authority:

1. All supervisory and policy-level positions within the office of the Mayor and the office of the City Administrator;

2. All elected officers of the City and County and their chief deputies or chief assistants;

3. All members of commissions, boards and advisory committees;

4. Not more than one commission secretary for each commission or board;

5. All heads of agencies and departments, unless otherwise provided for herein;

6. All non-uniformed deputy heads of departments;

7. All uniformed deputy heads of departments, police commanders and Fire Chiefs aides;

8. Not more than one confidential secretary and executive assistant in each department and agency;

9. The Clerk of the Board of Supervisors, legislative analyst and assistants to the members of the Board of Supervisors.

10. All paraprofessional aides of the Unified School District and teaching instructional aides of the Community College District;

11. Persons employed in positions outside the City and County upon construction work being performed by the City and County when such positions are exempted from the classified civil service by an order of the civil service commission;

12. Persons employed in positions in any department for expert professional temporary services, when such positions are exempted from said classified civil service for a specified period of said temporary service by order of the civil service commission.

The proportion of full-time employees in the above exempt categories to the total number of civil service employees of the City and County shall not be greater than such proportion as existed on July 1, 1994, unless modified by Civil Service Commission rule, approved by the Board of Supervisors.

13. All attorneys, including an attorney to the Sheriff and an attorney for the Tax Collector, City Attorney's and District Attorney's investigators, hospital chief administrators, physicians and dentists serving in their professional capacity (except those physicians and dentists whose duties are significantly administrative or supervisory);

14. The law librarian, assistant law librarians, bookbinder of the Law Library, purchaser, curators, Assistant Sheriff, Deputy Port Director, Chief of the Bureau of Maritime Affairs, Director of Administration and Finance of the Port, Port Sales Manager, Port Traffic Manager, Chief Wharfinger, Port Commercial Property Manager, Actuary of the Employee's Retirement System, Director of the Zoo, Chief Veterinarian of the Zoo, Director of the Arboretum and Botanical Garden, Director of

Employee Relations, Health Service Administrator, Executive Assistant to the Human Services Director, and any other positions designated as exempt under the 1932 Charter, as amended;

15. Positions determined by the Controller and approved annually by the Board of Supervisors to be positions where the work or services can be practically performed under private contract at a lesser cost than similar work performed by employees of the City and County, except where such work or services are required to be performed by officers or employees of the City and County under the provisions of this Charter or other applicable law.

In addition, with the approval of the Civil Service Commission, exempt employees shall include:

16. Temporary and seasonal appointments not to exceed the equivalent of half-time during any fiscal year, except that such positions may be filled through regular civil service procedures;

17. Appointments, which shall not exceed two years and shall not be renewable, as substitutes for civil service employees on leave, except that such positions may be filled through regular Civil Service procedures;

18. Appointments, which shall not exceed three years and shall not be renewable, for special projects and professional services with limited term funding, except that such positions may be filled through regular civil service procedures; and

19. Entry level positions designated by an appointing officer with approval of the Civil Service Commission for persons who met minimum qualifications and are certified as blind or severely disabled; persons so appointed whose job performance is rated satisfactory by their appointing officer shall after one year of continuous service acquire Civil Service status.

#### **SEC. 10.105. PROVISIONAL APPOINTMENTS.**

Provisional appointments for classified positions for which no eligible list exists shall not exceed three years. Provisional appointments may only be renewed with the approval of the Board of Supervisors and upon certification by the Human Resources Director that for reasons beyond his or her control the Department has been unable to conduct examinations for these positions.





## **ARTICLE XI: EMPLOYER-EMPLOYEE RELATIONS SYSTEM**

Sec. 11.100. General.

Sec. 11.101. Employee Relations Office.

### **SEC. 11.100. GENERAL.**

Subject to this Charter and consistent with state law, the Mayor through the Human Resources Director or his/her designee and in consultation with the Board of Supervisors shall be responsible for meeting and conferring with employees or their recognized employee organizations regarding salaries, working conditions, benefits and other terms and conditions of employment to be embodied in memoranda of understanding. The Human Resources Director shall assume day-to-day administration of all labor relations responsibilities previously vested in the Mayor or Board of Supervisors.

The Human Resources Director shall submit proposed memoranda of understanding including, where applicable, schedules of compensation, benefits and working conditions to the Mayor, who upon approval shall forward the proposed memoranda of understanding to the Board of Supervisors for determination by a majority vote. The Board of Supervisors shall have the power to accept or reject such memoranda of understanding. It shall be the duty of the Board of Supervisors, upon approval of any such memoranda of understanding to enact appropriate ordinances authorizing payment of any compensation or benefits or other terms and conditions of employment so approved.

Nothing in this section shall supersede any dates specified in this Charter for fixing compensation, except that the Board of Supervisors by motion may extend up to 30 days the date for final adoption of ordinances approving salary and benefits pursuant to such sections. Should the Board of Supervisors reject any memorandum of understanding and/or schedule of compensation and benefits, the Board of Supervisors shall by motion simultaneously extend by 60 days the date for final adoption of ordinances approving salary, benefits and/or working conditions pursuant to such sections.

### **SEC. 11.101. EMPLOYEE RELATIONS OFFICE.**

The Human Resources Director shall:

1. Represent the City and County and/or its departments in the implementation of those provisions of Title I, Division 4, Chapter 10 of the Government Code applicable to the City and County, subject to the Mayor's authority under Charter Section 11.100;

2. Coordinate the meet and confer process between the City and County, its employees and/or their designated representatives;

3. Negotiate and administer memoranda of understanding; and

4. Perform related duties necessary to administer the employee relations functions of the City and County.



## ARTICLE XII: EMPLOYEE RETIREMENT AND HEALTH SERVICE SYSTEMS

- Sec. 12.100. Retirement Board.
- Sec. 12.101. Executive Director.
- Sec. 12.102. Hearing Officer.
- Sec. 12.103. Trust Fund.
- Sec. 12.200. Health Service Board.
- Sec. 12.201. Medical Director and Health Services Administrator.
- Sec. 12.202. Membership in Health Service System.
- Sec. 12.203. Health Service System Fund.

### SEC. 12.100. RETIREMENT BOARD.

The Retirement Board shall consist of seven members as follows: one member of the Board of Supervisors appointed by the President, three public members to be appointed by the Mayor pursuant to Section 3.100, and three members elected by the active members and retired persons of the Retirement System from among their number. The public members appointed by the Mayor shall be experienced in life insurance, actuarial science, employee pension planning or investment portfolio management, or hold a degree of doctor of medicine. There shall not be, at any one time, more than one retired person on the Board. The term of the members, other than the Board of Supervisors member, shall be five years, one term expiring on February 20th of each year. The three elected members need not be residents of the City and County. Vacancies on the Board shall be filled by the Mayor for the remainder of the unexpired term, except that in the case of elected employee members, a vacancy shall be filled by a special election within 120 days after the vacancy occurs unless the next regularly scheduled employee member election is to be held within six months after such vacancy occurred. Elections shall be conducted by the Director of Elections in a manner prescribed by ordinance.

The Board shall appoint and may remove an executive director and an actuary. The Board may employ a consulting actuary.

In accordance with Article XVI, Section 17, of the California Constitution, the Retirement Board shall have plenary authority and fiduciary responsibility for investment of monies and administration of the Retirement System.

The Board shall be the sole authority and judge, consistent with this Charter and ordinances, as to the conditions under which members of the Retirement System may receive and may continue to receive benefits under the Retirement System, and shall have exclusive control of the administration and investment of such funds as may be established.

The Retirement Board shall discharge its duties with respect to the system with the care, skill, prudence and diligence under the circumstances then prevailing that a prudent person acting in a like capacity and familiar with these matters would use in the conduct of an enterprise of a like character and with like aims.

The Board shall determine City and County and District contributions on the basis of a normal contribution rate which shall be computed as a level percentage of compensation which, when applied to the future compensation of the average new member entering the System, together with the required member contribution, will be sufficient to provide for the payment of all prospective benefits of such member. The portion of liability not provided by the normal contribution rate shall be amortized over a period not to exceed twenty years.

The Board may act by a majority of the members present at a meeting so long as a quorum is in attendance.

### SEC. 12.101. EXECUTIVE DIRECTOR.

The executive director shall administer the Retirement System in accordance with the provisions of this Charter and the policies and regulations of the Retirement Board.

**SEC. 12.102. HEARING OFFICER.**

Any application for retirement or death allowance made pursuant to this Charter shall be heard by a hearing officer employed under contract by the Retirement Board and selected by procedures set forth in its rules, which shall include rules setting forth the qualifications and selection procedure necessary to appoint a qualified and unbiased hearing officer. Following public hearing, the hearing officer shall determine whether such application shall be granted or denied. All expenses related to processing and adjudicating such applications shall be paid from the Trust Fund.

At any time within 30 days after the service of the hearing officer's decision, the applicant or any other affected party, including the Retirement System, may petition the hearing officer for a rehearing upon one or more of the following grounds and no other:

1. That the hearing officer acted without or in excess of the hearing officer's powers;
2. That the decision was procured by fraud;
3. That the evidence does not justify the decision; or
4. That the petitioner has discovered new material evidence which could not, with reasonable diligence, have been discovered and produced at the hearing.

The decision of the hearing officer shall be final upon the expiration of 30 days after the petition for rehearing is denied, or if the hearing is granted, upon the expiration of 30 days after the rendition of the decision. Such final decision shall not be subject to amendment, modification or rescission by the Board, but shall be subject to review by the Board only for the purpose of determining whether to seek judicial review.

**SEC. 12.103. TRUST FUND.**

The Retirement Fund shall be a trust fund to be administered by the Retirement Board in accordance with the provisions of this Charter solely for the benefit of the active members and retired members of the Retirement System and their survivors and beneficiaries. Administrative costs of the Retirement System, as adopted by the Board of Supervisors in the annual budget shall be paid from the accumulated contributions of the City and County.

The Fund is intended to qualify for tax deferred treatment under Section 401(a) of the Internal Revenue Code of 1986, as amended, and the Board is responsible for preserving the Fund's status.

**SEC. 12.200. HEALTH SERVICE BOARD.**

There shall be a Health Service Board which shall consist of seven members as follows: one member of the Board of Supervisors, to be appointed by the President of the Board of Supervisors; the City Attorney or designated deputy city attorney, except that on May 15, 2005, the City Attorney's tenure on the Health Service Board shall expire and that seat shall be filled by a member elected from the active and retired members of the System from among their number; two members appointed by the Mayor pursuant to Section 3.100, one of whom shall be an individual who regularly consults in the health care field, and the other a doctor of medicine; and three members (in addition to the elected member assuming the seat vacated by the City Attorney) elected from the active and retired members of the System from among their number. Elections shall be conducted by the Director of Elections in a manner prescribed by ordinance. Elected members need not reside within the City and County. The terms of members, other than the ex officio members, shall be five years, and shall expire on May 15 of each year.

A vacancy on the Board appointed by the Mayor shall be filled by the Mayor. A vacancy in an elective office on the Board shall be filled by a special election within 90 days after the vacancy occurs unless a regular election is to be held within six months after such vacancy shall have occurred.

The Health Service Board shall:

1. Establish and maintain detailed historical costs for medical and hospital care and conduct an annual review of such costs;
2. Apply benefits without special favor or privilege;
3. Put such plans as provided for in Section A8.422 into effect and conduct and administer the same and contract therefor and use the funds of the System;
4. Make rules and regulations for the administration of business of the Health Service System, the granting of exemptions and the admission



to the System of persons who are hereby made members, and such other officers and employees as may voluntarily become members with the approval of the Board; and

5. Receive, consider and, within 60 days after receipt, act upon any matter pertaining to the policies of, or appeals from, the Health Service System submitted to it in writing by any member or any person who has contracted to render medical care to the members.

Except as otherwise specifically provided, the Health Service Board shall have the powers and duties and shall be subject to the limitations of Charter Sections 4.102, 4.103 and 4.104.

Subject to the requirements of state law and the budgetary and fiscal provisions of the Charter, the Health Service Board may make provision for health or dental benefits for residents of the City and County of San Francisco as provided in Section A8.421 of Appendix A of the Charter. (Amended November 2004)

#### **SEC. 12.201. MEDICAL DIRECTOR AND HEALTH SERVICES ADMINISTRATOR.**

The Health Service Board may appoint a full-time or part-time medical director. He or she shall hold office at its pleasure. The medical director shall be responsible to the Board as a board, but not to any individual member or committee thereof. The Health Service Board shall appoint a full-time administrator with experience in administering health plans or in comparable work, who shall hold office at the Health Service Board's pleasure. The Health Services administrator shall administer the Health Service System in accordance with the provisions of this Charter and the rules, regulations and policies of the Health Service Board. The Board and each committee of the Board shall confine its activities to policy matters and to matters coming before it as an appeals board. The Board shall prepare its rules, regulations and policies so that they are clear, definite and complete and so that they can be readily administered by the Health Services administrator. (Amended November 2004)

#### **SEC. 12.202. MEMBERSHIP IN HEALTH SERVICE SYSTEM.**

The members of the System shall consist of all officers and permanent employees of the City and County, the Unified School District, the Community College District, and such other officers, employees, dependents and retirees as provided by ordinance.

#### **SEC. 12.203. HEALTH SERVICE SYSTEM FUND.**

The Health Service System fund shall be a trust fund administered by the Health Service Board in accordance with the provisions of this Charter solely for the benefit of the active and retired members of the Health Service System and their covered dependents. The City and County, School District and Community College District shall each contribute to the Health Service System Fund amounts sufficient to efficiently administer the Health Service System.



## ARTICLE XIII: ELECTIONS

- Sec. 13.100. City and County Elections.
- Sec. 13.101. Terms of Elective Office.
- Sec. 13.101.5. Vacancies.
- Sec. 13.102. Instant Runoff Elections.
- Sec. 13.103. Special Municipal Elections.
- Sec. 13.103.5. Elections Commission.
- Sec. 13.104. Department of Elections.
- Sec. 13.104.5. Use of Other City Employees and Officers.
- Sec. 13.105. Nomination.
- Sec. 13.106. Qualification.
- Sec. 13.107. Election Material Mailed to Voters.
- Sec. 13.107.5. Posting of Ballot Counts at Polls.
- Sec. 13.108. Determination of Election Results.
- Sec. 13.109. Filing Fees.
- Sec. 13.110. Election of Supervisors.

### SEC. 13.100. CITY AND COUNTY ELECTIONS.

The Board of Supervisors shall adopt an Elections Code consistent with the provisions of this Charter. Where not otherwise provided by this Charter or by ordinance, all City and County elections shall be governed by the provisions of applicable state laws.

### SEC. 13.101. TERMS OF ELECTIVE OFFICE.

Except in the case of an appointment or election to fill a vacancy, the term of office of each elected officer shall commence at 12:00 noon on the eighth day of January following the date of the election.

Subject to the applicable provisions of Section 13.102, the elected officers of the City and County shall be elected as follows:

At the general municipal election in 1995 and every fourth year thereafter, a Mayor, a Sheriff and a District Attorney shall be elected.

At the statewide general election in 1996 and every fourth year thereafter, four members of the Board of Education and four members of the Governing Board of the Community College District shall be elected.

At the general municipal election in 1997 and every fourth year thereafter, a City Attorney and a Treasurer shall be elected.

At the statewide primary election in 1998 and every fourth year thereafter, an Assessor-Recorder and Public Defender shall be elected.

At the statewide general election in 1998 and every fourth year thereafter, three members of the Board of Education and three members of the Governing Board of the Community College District shall be elected.

The election and terms of office of members of the Board of Supervisors shall be governed by Section 13.110. (Amended November 1996; March 2002)

### SEC. 13.101.5. VACANCIES.

(a) If the office of Assessor-Recorder, City Attorney, District Attorney, Public Defender, Sheriff, Treasurer, or Member of the Board of Supervisors, Board of Education or Governing Board of the Community College District becomes vacant because of death, resignation, recall, permanent disability, or the inability of the respective officer to otherwise carry out the responsibilities of the office, the Mayor shall appoint an individual qualified to fill the vacancy under this Charter and state laws.

(b) If the Office of Mayor becomes vacant because of death, resignation, recall, permanent disability or the inability to carry out the responsibilities of the office, the President of the Board of Supervisors shall become Acting Mayor and shall serve until a successor is appointed by the Board of Supervisors.

(c) Any person filling a vacancy pursuant to subsection (a) or (b) of this Section shall serve until a successor is selected at the next election occurring not less than 120 days after the vacancy, at which time an election shall be held to fill the unexpired term, provided that (1) if an election for the vacated office is scheduled to occur less than one year after the vacancy, the appointee shall serve until a successor is

selected at that election or (2) if an election for any seat on the same board as the vacated seat is scheduled to occur less than one year but at least 120 days after the vacancy, the appointee shall serve until a successor is selected at that election to fill the unexpired term.

(d) If no candidate receives a majority of the votes cast at an election to fill a vacated office, the two candidates receiving the most votes shall qualify to have their names placed on the ballot for a municipal runoff election at the next regular or otherwise scheduled election occurring not less than five weeks later. If an instant runoff election process is enacted for the offices enumerated in this Section, that process shall apply to any election required by this Section: (Added November 2001)

### SEC. 13.102. INSTANT RUNOFF ELECTIONS.

(a) For the purposes of this section: (1) a candidate shall be deemed "continuing" if the candidate has not been eliminated; (2) a ballot shall be deemed "continuing" if it is not exhausted; and (3) a ballot shall be deemed "exhausted," and not counted in further stages of the tabulation, if all of the choices have been eliminated or there are no more choices indicated on the ballot. If a ranked-choice ballot gives equal rank to two or more candidates, the ballot shall be declared exhausted when such multiple rankings are reached. If a voter casts a ranked-choice ballot but skips a rank, the voter's vote shall be transferred to that voter's next ranked choice.

(b) The Mayor, Sheriff, District Attorney, City Attorney, Treasurer, Assessor-Recorder, Public Defender, and members of the Board of Supervisors shall be elected using a ranked-choice, or "instant runoff," ballot. The ballot shall allow voters to rank a number of choices in order of preference equal to the total number of candidates for each office; provided, however, if the voting system, vote tabulation system or similar or related equipment used by the City and County cannot feasibly accommodate choices equal to the total number of candidates running for each office, then the Director of Elections may limit the number of choices a voter may rank to no fewer than three. The ballot shall in no way interfere with a voter's ability to cast a vote for a write-in candidate.

(c) If a candidate receives a majority of the first choices, that candidate shall be declared elected. If no

candidate receives a majority, the candidate who received the fewest first choices shall be eliminated and each vote cast for that candidate shall be transferred to the next ranked candidate on that voter's ballot. If, after this transfer of votes, any candidate has a majority of the votes from the continuing ballots, that candidate shall be declared elected.

(d) If no candidate receives a majority of votes from the continuing ballots after a candidate has been eliminated and his or her votes have been transferred to the next-ranked candidate, the continuing candidate with the fewest votes from the continuing ballots shall be eliminated. All votes cast for that candidate shall be transferred to the next-ranked continuing candidate on each voter's ballot. This process of eliminating candidates and transferring their votes to the next-ranked continuing candidates shall be repeated until a candidate receives a majority of the votes from the continuing ballots.

(e) If the total number of votes of the two or more candidates credited with the lowest number of votes is less than the number of votes credited to the candidate with the next highest number of votes, those candidates with the lowest number of votes shall be eliminated simultaneously and their votes transferred to the next-ranked continuing candidate on each ballot in a single counting operation.

(f) A tie between two or more candidates shall be resolved in accordance with State law.

(g) The Department of Elections shall conduct a voter education campaign to familiarize voters with the ranked-choice or, "instant runoff," method of voting.

(h) Any voting system, vote tabulation system, or similar or related equipment acquired by the City and County shall have the capability to accommodate this system of ranked-choice, or "instant runoff," balloting.

(i) Ranked choice, or "instant runoff," balloting shall be used for the general municipal election in November 2002 and all subsequent elections. If the Director of Elections certifies to the Board of Supervisors and the Mayor no later than July 1, 2002 that the Department will not be ready to implement ranked-choice balloting in November 2002, then the City shall begin using ranked-choice, or "instant runoff," balloting at the November 2003 general municipal election.



If ranked-choice, or "instant runoff," balloting is not used in November of 2022, and no candidate for any elective office of the City and County, except the Board of Education and the Governing Board of the Community College District, receives a majority of the votes cast at an election for such office, the two candidates receiving the most votes shall qualify to have their names placed on the ballot for a runoff election held on the second Tuesday in December of 2002. (Added March 2002) (Former Section 13.102 added November 1996; repealed March 2002)

### **SEC. 13.103. SPECIAL MUNICIPAL ELECTIONS.**

Special municipal elections may be called in accordance with state laws.

The date of any special municipal election shall be fixed by the Board of Supervisors not less than 105 nor more than 120 days from the date of calling such election; however, no special municipal election shall be held within 105 days of any general municipal or statewide election. The Board of Supervisors may consolidate a special municipal election with a general municipal or statewide election.

The Board of Supervisors shall maintain a fund sufficient to pay all costs and expenses of the City and County with respect to a special municipal election, and such fund shall be used solely to pay the costs of such an election. Upon payment of any such costs or expenses, an appropriation shall be made in the next succeeding annual appropriations ordinance sufficient to reimburse the fund.

### **SEC. 13.103.5. ELECTIONS COMMISSION.**

An Elections Commission shall be established to oversee all public federal, state, district and municipal elections in the City and County. The Commission shall set general policies for the Department of Elections and shall be responsible for the proper administration of the general practices of the Department, subject to the budgetary and fiscal provisions of this Charter. These duties shall include but not be limited to approving written plans prior to each election, submitted by the Director of Elections, detailing the policies, procedures, and personnel that

will be used to conduct the election as well as an assessment of how well the plan succeeded in carrying out a free, fair and functional election.

The Commission shall consist of seven members who shall serve five-year terms. No person appointed as a Commission member may serve as such for more than two successive five-year terms. Any person appointed as a Commission member to complete more than two and one half years of a five-year term shall be deemed, for the purpose of this section, to have served one full term. No person having served two successive five-year terms may serve as a Commission member until at least five years after the expiration of the second successive term in office. Any Commission member who resigns with less than two and one half years remaining until the expiration of the term shall be deemed, for the purposes of this section, to have served a full five-year term.

The Mayor, the Board of Supervisors, the City Attorney, the Public Defender, the District Attorney, the Treasurer, and the Board of Education of the San Francisco Unified School District each shall appoint one member of the Commission. The member

*[Section 13.103.5 continues on page 61.]*

appointed by the Mayor shall have a background in the electoral process. The member appointed by the City Attorney shall have a background in elections law. The member appointed by the Treasurer shall have a background in financial management. The members appointed by the District Attorney, Public Defender, the Board of Education of the San Francisco Unified School District, and the Board of Supervisors shall be broadly representative of the general public. In the event a vacancy occurs, the appointing authority who appointed the member vacating the office shall appoint a qualified person to complete the remainder of the term. All members initially appointed to the Election Commission shall take office on the first day of January, 2002.

The initial terms of Commission members shall expire according to the following guidelines: the term of the members appointed by the Mayor and the Board of Education of the San Francisco Unified School District shall expire on January 1, 2003; the term of the members appointed by the Board of Supervisors and the Treasurer shall expire on January 1 2004; the term of the member appointed by the City Attorney shall expire January 1, 2005; the term of the member appointed by the Public Defender shall expire January 1, 2006; and the term of the member appointed by the District Attorney shall expire January 1, 2007.

Members of the Commission shall serve without compensation. Members of the Commission shall be officers of the City and County, and may be removed by the appointing authority only pursuant to Section 15.105. During his or her tenure, members and employees of the Elections Commission are subject to the following restrictions:

(a) **Restrictions on Holding Office.** No member or employee of the Elections Commission may hold any other City or County office or be an officer of a political party.

(b) **Restrictions on Employment.** No member or employee of the Elections Commission may be a registered campaign consultant or registered lobbyist, or be employed by or receive gifts or other compensation from a registered campaign consultant or registered lobbyist. No member of the Elections Commission may hold any employment with the City and County and no employee of the Elections Commission may hold any other employment with the City and County.

(c) **Restrictions on Political Activities.** No member or employee of the Elections Commission may participate in any campaign supporting or opposing a candidate or ballot measure that will appear on the San Francisco ballot, other than candidates seeking election to federal or statewide office. For purposes of this section, participation in a campaign includes but is not limited to making contributions or soliciting contributions to any committee, including general purpose committees; publicly endorsing or urging endorsement of any candidate or ballot measure; or participating in decisions by organizations to participate in a campaign.

If a person appointed to the Elections Commission is, at the time of appointment, an officer or employee, as prohibited by this section, that person shall be eligible to serve on the Elections Commission only if he or she resigns from his or her office or employment within thirty days of appointment. (Added November 2001; amended November 2002)

#### **SEC. 13.104. DEPARTMENT OF ELECTIONS.**

A Department of Elections shall be established to conduct all public federal, state, district and municipal elections in the City and County. The department shall be administered by the Director of Elections, who shall be vested with the day-to-day conduct and management of the Department and of voter registration and matters pertaining to elections in the City and County. The Director shall report to the Elections Commission.

For purposes of this section, the conduct of elections shall include, but not be limited to: voter registration; the nomination and filing process for candidates to City and County offices; the preparation and distribution of voter information materials; ballots, precinct operations and vote count; the prevention of fraud in such elections; and the recount of ballots in cases of challenge or fraud.

The Director shall be appointed by the Elections Commission from a list of qualified applicants provided pursuant to the civil service provisions of this Charter. The Director shall serve a five-year term, during which he or she may be removed by the Elections Commission for cause, upon written charges and following a hearing. The Elections Commission shall present the written charges to the Director no less than thirty days before the hearing. If the

Elections Commission votes to remove the Director, he or she shall have the right to appeal to the Civil Service Commission. On appeal, the Civil Service Commission shall be limited to consideration of the record before the Elections Commission; however, the Civil Service Commission may independently evaluate and weigh evidence and may in its discretion consider evidence proffered to the Elections Commission that the Commission excluded and may in its discretion exclude evidence that the Elections Commission considered. The term of the Director shall expire five years after his or her appointment. No less than thirty days before the expiration of the Director's term, the Elections Commission shall appoint a Director for the next term, who may but need not be the incumbent Director. Subject to the civil service provisions of this Charter, the Director shall have the power to appoint and remove other employees of the Department of Elections.

In addition to any other conflict of interest provisions applicable to City employees, the Director of Elections and all other employees of the Department of Elections shall be subject to the conflict-of-interest provisions in Section 13.103.5. The Elections Commission, may upon the recommendation of the Director of Elections and a finding that the Department will not have adequate staffing to conduct an election, request from the Board of Supervisors a waiver of the conflict-of-interest provisions in Section 13.103.5 for employees working no more than thirty days in a single calendar year. The Board of Supervisors shall approve or deny such requests from the Elections Commission by motion. (Amended November 2001)

#### **SEC. 13.104.5. USE OF OTHER CITY EMPLOYEES AND OFFICERS.**

Except as provided below, no City employee or officer, other than the Director of Elections, an appointee of the Director of Elections or a member of the Elections Commission, may in any capacity perform any function relating to the conduct of an election that this Charter places under the Department of Elections. This section prohibits City personnel from providing to the Department of Elections services that are unique to that department. This section does not prohibit City personnel from providing to the Department of Elections ordinary

services that are unrelated to the conduct of an election and that are indistinguishable from services performed for other City departments. These general support services include, but are not limited to, services relating to human resources, personnel processing, payroll, workers compensation, budgeting, accounting, procurement, contracting, and the maintenance of telephone and voice mail systems. The Elections Commission may, upon the recommendation of the Director of Elections, request from the Board of Supervisors a waiver of this prohibition so as to allow City employees and officers to assist the Department of Elections. The Board of Supervisors shall approve or deny such requests from the Elections Commission by motion.

The City Attorney shall serve as legal counsel to the Elections Commission and the Department of Elections. The Commission may, by a majority vote of its members, hire outside legal counsel to advise the Commission and the Department on matters that directly involve the election or campaign of the City Attorney, if the City Attorney is standing for election. All outside legal counsel hired pursuant to this Section shall be a member in good standing of the California State Bar. In selecting outside legal counsel, the Commission shall give preference to engaging the services of a city attorney's office, a county counsel's office or other public entity law office with an expertise regarding the subject-matter jurisdiction of the Elections Commission. In the event that the Commission concludes that private counsel is necessary, it may, by a majority vote, engage the services of a private attorney who has at least five years' experience in the subject-matter jurisdiction of the Elections Commission. Any private counsel retained pursuant to this Section shall be subject to the conflict of interest provisions of Section 13.103.5. Any contract for outside legal counsel authorized by this section shall be paid for by the Commission and shall be subject to the budgetary and fiscal provisions of this charter.

The Sheriff shall be responsible for transporting all voted ballots and all other documents or devices used to record votes from the polls to the central counting location and approving a security plan for the ballots until the certification of election results. This requirement shall not become operative following its adoption until the Sheriff has completed meeting and



conferring required by state law. The Elections Commission shall send a copy of the approved transportation and security plan to the Board of Supervisors.

The Director of Elections shall develop and submit for the approval of the Elections Commission an alternative transportation and security plan if an incumbent sheriff is running for election or if there is a measure on the San Francisco ballot that would have a material, financial effect on the Sheriff or the uniformed personnel of the Sheriff's department as determined by the Ethics Commission. The Director of Elections shall invite the Secretary of State to comment on any alternative transportation and security plan. The Elections Commission shall send a copy of the approved alternative transportation and security plan to the Board of Supervisors. The Board of Supervisors shall have the authority to enter into any contracts or take whatever actions are necessary to meet the alternative security requirements of this section. (Added November 2001; amended November 2002)

#### **SEC. 13.105. NOMINATION.**

The City and County shall follow the nomination provisions for municipal elective offices in accordance with state laws, except as provided for by ordinance or this Charter.

#### **SEC. 13.106. QUALIFICATION.**

Each candidate for an elective office of the City and County shall be a resident of the City and County and an elector at the time that nomination papers are issued to the candidate, and each elected officer shall continue to be an elector during the term of the office.

#### **SEC. 13.107. ELECTION MATERIAL MAILED TO VOTERS.**

The Board of Supervisors shall, by ordinance, provide for the format of a voters' pamphlet including a sample ballot, candidates' statements, lists of sponsors, arguments for and against each ballot measure, any financial impact statements prepared by the Controller, and arguments for and against the recall of any officers. The voters' pamphlet shall be mailed to each elector so as to be received at least ten days prior to each general, runoff or special municipal election.

#### **SEC. 13.107.5. POSTING OF BALLOT COUNTS AT POLLS.**

After the closing of the polls, each precinct board shall cause to be posted outside of each polling place an accounting that includes the number of ballots delivered to that precinct board and the number of voted ballots, unused ballots, spoiled ballots, cancelled ballots, absentee ballots and provisional ballots returned to the Department of Elections by the precinct board at any time on election day. After the closing of the polls, each precinct board shall also post outside each polling place any computer record indicating the number of ballots cast for each candidate and for or against each ballot measure. (Added November 2001)

#### **SEC. 13.108. DETERMINATION OF ELECTION RESULTS.**

The canvass of votes cast, and certification of elections shall be as prescribed by law. If a person elected fails to qualify or for any reason does not take office, the office shall be filled in the manner prescribed by state law for the filling of a vacancy in such office.

#### **SEC. 13.109. FILING FEES.**

The amount of fees to be charged for candidate filings, candidate statements, paid arguments and any other fees to be collected in the conduct of elections shall be proposed by the Director of Elections for approval by the Board of Supervisors on or before the second Monday in December immediately prior to the election in which the fees apply.

Signatures of registered voters in the City and County may be submitted in lieu of any filing fee. At the same time the Board of Supervisors approves the schedule of fees for the election, the Director of Elections, with the approval of the Board of Supervisors, shall establish the dollar value equivalent of each valid signature submitted.

#### **SEC. 13.110. ELECTION OF SUPERVISORS.**

(a) The members of the board of supervisors shall be elected by district as set forth in this section.

(b) The city and county shall be divided into 11 supervisorial districts as set forth in this section. Beginning with the general municipal election in 2000,

and until new districts are established pursuant to this section, these districts shall be used for the election or recall of the members of the board of supervisors, and for filling any vacancy in the office of member of the board of supervisors by appointment. Once new districts are established, those districts shall be used for the same purposes. No change in the boundary or location of any district shall operate to abolish or terminate the term of office of any member of the board of supervisors prior to the expiration of the term of office for which such member was elected or appointed.

(c) *[See editor's note following the concluding paragraph (f) of this section.]*

(d) Within 60 days following publication of the decennial federal census in the year 2000 and every decennial federal census after that, the Director of Elections shall report to the Board of Supervisors on whether the existing districts continue to meet the requirements of federal and state law and the criteria for drawing districts lines set in the Charter.

The criteria for drawing districts lines are:

Districts must conform to all legal requirements, including the requirement that they be equal in population. Population variations between districts should be limited to 1 percent from the statistical mean unless additional variations, limited to 5 percent of the statistical mean, are necessary to prevent dividing or diluting the voting power of minorities and/or to keep recognized neighborhoods intact; provided, however, that the redistricting provided for herein shall conform to the rule of one person, one vote, and shall reflect communities of interest within the city and county. Census data, at the census block level, as released by the United States Census Bureau, statistically adjusted by the Bureau to correct the unadjusted census counts for any measured undercount or overcount of any subset of the population according to the bureau's Accuracy and Coverage Evaluation or other sampling method, shall be used in any analysis of population requirements and application of the rule of one person one vote. In the event such adjusted census data, at the census block level, are not released by the Bureau, population data, at the census block level, adjusted by the California Department of Finance for any measured undercount or overcount may be used.

If it is determined that the districts are in compliance with all legal requirements, including the requirement that they be equal in population, the current districts as drawn will be valid for the next decade. If it is determined that any of the districts are not in compliance, the Board of Supervisors by ordinance shall convene and fund a nine-member elections task force. Three members shall be appointed by the Board of Supervisors, three members shall be appointed by the Mayor, and three members shall be appointed by the Director of Elections unless an Elections Commission is created in which case the appointments designated to the Director of Elections shall be made by the Elections Commission. Task Force shall be appointed by January 8, 2002 and following the publication of each decennial federal census thereafter, shall be appointed within sixty days after issuance of a report by the Director of Elections to the Board of Supervisors that the districts are not in compliance, pursuant to this subsection.

Members of the Task Force previously appointed by the Director of Elections shall serve on the Task Force until the Elections Commission, if established, appoints three members to the Task Force, whereupon the terms of the members appointed by the Director of Elections shall expire.

The Director of Elections shall serve ex officio as a non-voting member. The task force shall be responsible for redrawing the district lines in accordance with the law and the criteria established in this Section, and shall make such adjustments as appropriate based on public input at public hearings.

The Task Force shall complete redrawing district lines before the fifteenth day of April of the year in which the first election using the redrawn lines will be conducted. The Board of Supervisors may not revise the district boundaries established by the Task Force.

If the Task Force determines that the adjusted population data to which this subsection refers are not available a sufficient period of time before the fifteenth day of April in order to use the adjusted population data in redrawing the district lines for the following supervisorial election, and the adjusted population data demonstrate more than a five percent variance from the figures used in redrawing the district lines for the [sic] that supervisorial election,

the Task Force shall by the fifteenth day of April immediately preceding the next supervisorial election redraw the district lines for that supervisorial election in accordance with the provisions of this section. The procedures for redrawing supervisorial lines following the publication of every subsequent decennial federal census shall follow the procedures established by this Section.

The City Attorney shall remove the description of district lines found in this subsection from the Charter after the Elections Task Force has completed redrawing the district lines as set forth above. Following each redrawing of the district lines thereafter, the City Attorney shall cause the redrawn district lines to be published in an appendix to this Charter.

(e) Each member of the board of supervisors, commencing with the general municipal election in November, 2000, shall be elected by the electors within a supervisorial district, and must have resided in the district in which he or she is elected for a period of not less than 30 days immediately preceding the date he or she files a declaration of candidacy for the office of supervisor, and must continue to reside therein during his or her incumbency, and upon ceasing to be such resident shall be removed from office.

(f) Notwithstanding any provisions of this section or any other section of the charter to the contrary, the respective terms of office of the members of the board of supervisors who shall hold office on the eighth day of January, 2001, shall expire at 12 o'clock noon on said date and the 11 persons elected as members of the board of supervisors at the general election in 2000 shall succeed to said offices on said eighth day of January, 2001. At that time, the clerk of the board of supervisors shall determine by lot whether the supervisors elected from the even- or odd-numbered supervisorial districts at the general municipal election in 2000 shall have terms of office expiring at noon on the eighth day of January, 2003, and which shall have terms of office expiring at noon on the eighth day of January, 2005; commencing, however, with the general municipal election in November, 2002, the terms of office of the supervisors elected from the even- or odd-numbered supervisorial districts, as the case may be, shall be for

a term of four years and shall continue as such thereafter. Those members of the board of supervisors elected at the general election in 1998, and those elected at the general election in 2000 who only serve an initial two-year term, shall not be deemed to have served a full term for purposes of the term limit established in Section 2.101. (Added November 1996; amended November 1999; November 2001)

***Editor's note:***

*Charter Section 13.100(c) originally contained boundaries and descriptions of the eleven supervisorial districts of the City and County of San Francisco. Charter Section 13.100(d) requires that once new district lines are drawn, those descriptions are to be removed and the new lines published in an appendix to this Charter. For the current district boundaries and descriptions, please see Appendix E of this Charter.*





## ARTICLE XIV: INITIATIVE, REFERENDUM, AND RECALL

- Sec. 14.100. General.
- Sec. 14.101. Initiatives.
- Sec. 14.102. Legislative Referendum.
- Sec. 14.103. Recall.
- Sec. 14.104. Petitions—Withdrawal of Signatures

### SEC. 14.100. GENERAL.

Except as otherwise provided in this Article, the voters of the City and County shall have the power to enact initiatives and the power to nullify acts or measures involving legislative matters by referendum.

### SEC. 14.101. INITIATIVES.

An initiative may be proposed by presenting to the Director of Elections a petition containing the initiative and signed by voters in a number equal to at least five percent of the votes cast for all candidates for mayor in the last preceding general municipal election for Mayor. Such initiative shall be submitted to the voters by the Director of Elections upon certification of the sufficiency of the petition's signatures.

A vote on such initiative shall occur at the next general municipal or statewide election occurring at any time after 90 days from the date of the certificate of sufficiency executed by the Director of Elections, unless the Board of Supervisors directs that the initiative be voted upon at a special municipal election.

If the petition containing the initiative is signed by voters in a number equal to at least ten percent of the votes cast for all candidates for Mayor in the last preceding general municipal election for Mayor, and contains a request that the initiative be submitted forthwith to voters at a special municipal election, the Director of Elections shall promptly call such a special municipal election on the initiative. Such election shall be held not less than 105 nor more than 120 days from the date of its calling unless it is within 105 days of a general municipal or statewide election, in which event the initiative shall be submitted at such general municipal or statewide election.

No initiative or declaration of policy approved by the voters shall be subject to veto, or to amendment or repeal except by the voters, unless such initiative or declaration of policy shall otherwise provide.

### SEC. 14.102. LEGISLATIVE REFERENDUM.

Prior to the effective date of an ordinance, a referendum on that ordinance may be proposed by filing with the Board of Supervisors a petition protesting the passage of that ordinance. Such petition shall be signed by voters in a number equal to at least ten percent, or in the case of an ordinance granting any franchise, at least five percent, of the votes cast for all candidates for Mayor in the last preceding general municipal election for Mayor.

Such ordinance shall then be suspended from becoming effective. The Board of Supervisors shall reconsider the ordinance. If it is not entirely repealed, the Board of Supervisors shall submit the ordinance to the voters at the next general municipal or statewide election or at a special municipal election. Such ordinance shall not become effective until approved by voters at such an election.

### SEC. 14.103. RECALL.

An elected official of the City and County, the City Administrator, the Controller, or any member of the Airports Commission, the Board of Education, the governing board of the Community College District, the Ethics Commission or the Public Utilities Commission may be recalled by the voters as provided by this Charter and by the laws of the State of California, except that no recall petitions shall be initiated with respect to any officer who has held office for less than six months.

A recall petition shall include the signatures of voters in a number equal to at least ten percent of registered voters of the City and County at time of the filing of the notice of intention to circulate the recall petitions. A recall petition for a member of the Board

of Supervisors shall include signatures of voters from the district from which the Supervisor was elected in a number equal to at least ten percent of the registered voters of the district at the time of the filing of the notice of intention to circulate the recall petition. A recall petition shall state the grounds on which the recall is based.

Upon certifying the sufficiency of the recall petition's signatures, the Director of Elections shall immediately call a special municipal election on the recall, to be held not less than 105 nor more than 120 days from the date of its calling unless it is within 105 days of a general municipal or statewide election, in which event the recall shall be submitted at such general municipal or statewide election. (Amended November 1996)

#### **SEC. 14.104. PETITIONS—WITHDRAWAL OF SIGNATURES.**

A person signing a petition for initiative, referendum or recall may withdraw his or her name from such petition by filing with the Director of Elections a verified revocation of that signature prior to the filing of such petition itself.

## ARTICLE XV: ETHICS

- Sec. 15.100. Ethics Commission.
- Sec. 15.101. Executive Director and Commission Staff.
- Sec. 15.102. Rules and Regulations.
- Sec. 15.103. Conflict of Interest.
- Sec. 15.105. Suspension and Removal.
- Sec. 15.107. Reporting of Campaign Financing.

### SEC. 15.100. ETHICS COMMISSION.

The Ethics Commission shall consist of five members who shall serve six-year terms; provided that the first five commissioners to be appointed to take office on the first day of February, 2002 shall by lot classify their terms so that the term of one commissioner shall expire at 12:00 o'clock noon on each of the second, third, fourth, fifth and sixth anniversaries of such date, respectively; and, on the expiration of these and successive terms of office, the appointments shall be made for six-year terms.

The Mayor, the Board of Supervisors, the City Attorney, the District Attorney and the Assessor each shall appoint one member of the Commission. The member appointed by the Mayor shall have a background in public information and public meetings. The member appointed by the City Attorney shall have a background in law as it relates to government ethics. The member appointed by the Assessor shall have a background in campaign finance. The members appointed by the District Attorney and Board of Supervisors shall be broadly representative of the general public.

In the event a vacancy occurs, the officer who appointed the member vacating the office shall appoint a qualified person to complete the remainder of the term. Members of the Commission shall serve without compensation. Members of the Commission shall be officers of the City and County, and may be removed by the appointing authority only pursuant to Section 15.105.

No person may serve more than one six-year term as a member of the Commission, provided that persons appointed to fill a vacancy for an unexpired term with less than three years remaining or appointed to an initial term of three or fewer years shall be eligible to be appointed to one additional six-year term. Any term served before the effective date of this Section shall not count toward a member's term limit. Any person who completes a term as a Commissioner shall be eligible for reappointment six years after the expiration of his or her term. Notwithstanding any provisions of this Section or any other section of the Charter to the contrary, the respective terms of office of the members of the Commission who shall hold office on the first day of February, 2002, shall expire at 12 o'clock noon on said date, and the five persons appointed as members of the Commission as provided in this Section shall succeed to said offices on said first day of February, 2002, at 12 o'clock noon; provided that if any appointing authority has not made a new appointment by such date, the sitting member shall continue to serve until replaced the new appointee.

During his or her tenure, members and employees of the Ethics Commission are subject to the following restrictions:

(a) Restrictions on Holding Office. No member or employee of the Ethics Commission may hold any other City or County office or be an officer of a political party.

(b) Restrictions on Employment. No member or employee of the Ethics Commission may be a registered lobbyist or campaign consultant, or be employed by or receive gifts or other compensation from a registered lobbyist or campaign consultant. No member of the Ethics Commission may hold employment with the City and County and no employee of the Commission may hold any other employment with the City and County.

(c) Restrictions on Political Activities. No member or employee of the Ethics Commission may participate in any campaign supporting or opposing a candidate for City elective office, a City ballot measure, or a City officer running for any elective office. For the purposes of this section, participation in a campaign includes but is not limited to making contributions or soliciting contributions to any committee within the Ethics Commission's jurisdiction, publicly endorsing or urging endorsement of a candidate or ballot measure, or participating in decisions by organizations to participate in a campaign.

The Commission may subpoena witnesses, compel their attendance and testimony, administer oaths and affirmations, take evidence and require by subpoena the production of any books, papers, records or other items material to the performance of the Commission's duties or exercise of its powers. (Amended November 2001; November 2002; November 2003)

#### **SEC. 15.101. EXECUTIVE DIRECTOR AND COMMISSION STAFF.**

The Commission shall appoint and may remove an Executive Director. The Executive Director shall have a background in campaign finance, public information and public meetings and the law as it relates to governmental ethics. The Executive Director shall be the chief executive of the department and shall have all the powers provided for department heads. Subject to the civil service provisions of this Charter, the Executive Director shall have the power to appoint and remove other employees of the Commission. In addition to any other conflict of interest provisions applicable to City employees, the Executive Director and all other employees of the Commission shall be subject to the conflict of interest provisions in Section 15.100, except that the post-employment restrictions contained therein shall apply only to the Executive Director and management-level employees. (Amended November 2001)

#### **SEC. 15.102. RULES AND REGULATIONS.**

The Commission may adopt, amend and rescind rules and regulations consistent with and related to carrying out the purposes and provisions of this Charter and ordinances related to campaign finances, conflicts of interest, lobbying, campaign consultants and governmental ethics and to govern procedures of the Commission. In addition, the Commission may adopt rules and regulations relating to carrying out the purposes and provisions of ordinances regarding open meetings and public records. The Commission shall transmit to the Board of Supervisors rules and regulations adopted by the Commission within 24 hours of their adoption. A rule or regulation adopted by the Commission shall become effective 60 days after the date of its adoption unless before the expiration of this 60-day period two-thirds of all members of the Board of Supervisors vote to veto the rule or regulation.

The City Attorney shall be the legal advisor of the Commission.

Any ordinance which the Supervisors are empowered to pass relating to conflicts of interest, campaign finance, lobbying, campaign consultants or governmental ethics may be submitted to the electors at the next succeeding general election by the Ethics Commission by a four-fifths vote of all its members. (Amended November 2001)

#### **SEC. 15.103. CONFLICT OF INTEREST.**

Public office is a public trust and all officers and employees of the City and County shall exercise their public duties in a manner consistent with this trust. The City may adopt conflict of interest and governmental ethics laws to implement this provision and to prescribe penalties in addition to discipline and removal authorized in this Charter. All officers and employees of the City and County shall be subject to such conflict of interest and governmental ethics laws and the penalties prescribed by such laws. (Amended November 2003)

Sec. 15.104.

(Repealed November 2003)



**SEC. 15.105. SUSPENSION AND REMOVAL.**

(a) **ELECTIVE AND CERTAIN APPOINTED OFFICERS.** Any elective officer, and any member of the Airport Commission, Asian Art Commission, Civil Service Commission, Commission on the Status of Women, Golden Gate Concourse Authority Board of Directors, Health Commission, Human Services Commission, Juvenile Probation Commission, Municipal Transportation Agency Board of Directors, Port Commission, Public Utilities Commission, Recreation and Park Commission, Fine Arts Museums Board of Trustees, Taxi Commission, War Memorial and Performing Art Center Board of Trustees, Board of Education or Community College Board is subject to suspension and removal for official misconduct as provided in this section. Such officer may be suspended by the Mayor and the Mayor shall appoint a qualified person to discharge the duties of the office during the period of suspension. Upon such suspension, the Mayor shall immediately notify the Ethics Commission and Board of Supervisors thereof in writing and the cause thereof, and shall present written charges against such suspended officer to the Ethics Commission and Board of Supervisors at or prior to their next regular meetings following such suspension, and shall immediately furnish a copy of the same to such officer, who shall have the right to appear with counsel before the Ethics Commission in his or her defense. The Ethics Commission shall hold a hearing not less than five days after the filing of written charges. After the hearing, the Ethics Commission shall transmit the full record of the hearing to the Board of Supervisors with a recommendation as to whether the charges should be sustained. If, after reviewing the complete record, the charges are sustained by not less than a three-fourths vote of all members of the Board of Supervisors, the suspended officer shall be removed from office; if not so sustained, or if not acted on by the Board of Supervisors within 30 days after the receipt of the record from the Ethics Commission, the suspended officer shall thereby be reinstated.

(b) **BUILDING INSPECTION COMMISSION, PLANNING COMMISSION, BOARD OF APPEALS, ELECTIONS COMMISSION, ETHICS COMMISSION, AND ENTERTAINMENT COMMISSION.** Members of the Building Inspection

Commission, the Planning Commission, the Board of Appeals, the Elections Commission, the Ethics Commission, and the Entertainment Commission may be suspended and removed pursuant to the provisions of subsection (a) of this section except that the Mayor may initiate removal only of the Mayor's appointees and the appointing authority shall act in place of the Mayor for all other appointees.

(c) **REMOVAL FOR CONVICTION OF A FELONY CRIME INVOLVING MORAL TURPITUDE.**

(1) **Officers Enumerated in Subsections (a) and (b).**

(A) An appointing authority must immediately remove from office any official enumerated in subsections (a) or (b) upon:

(i) a court's final conviction of that official of a felony crime involving moral turpitude; and

(ii) a determination made by the Ethics Commission, after a hearing, that the crime for which the official was convicted warrants removal.

(B) For the purposes of this subsection, the Mayor shall act as the appointing authority for any elective official.

(C) Removal under this subsection is not subject to the procedures in subsections (a) and (b) of this section.

(2) **Other Officers and Employees.**

(A) At will appointees. Officers and employees who hold their positions at the pleasure of their appointing authority must be removed upon:

(i) a final conviction of a felony crime involving moral turpitude; and

(ii) a determination made by the Ethics Commission, after a hearing, that the crime for which the appointee was convicted warrants removal.

(B) For cause appointees. Officers and employees who by law may be removed only for cause must be removed upon:

(i) a final conviction of a felony crime involving moral turpitude; and

(ii) a determination made by the Ethics Commission, after a hearing, that the crime for which the appointee was convicted warrants removal.

(3) **Penalty for Failure to Remove.** Failure to remove an appointee as required under this subsection shall be official misconduct.

(d) **DISQUALIFICATION.**

(1) (A) Any person who has been removed from any federal, state, county or city office or employment upon a final conviction of a felony crime involving moral turpitude shall be ineligible for election or appointment to City office or employment for a period of ten years after removal.

(B) Any person removed from any federal, state, county or city office or employment for official misconduct shall be ineligible for election or appointment to City office or employment for a period of five years after removal.

(2) (A) Any City department head, board, commission or other appointing authority that removes a City officer or employee from office or employment on the grounds of official misconduct must invoke the disqualification provision in subsection (d)(1)(B) and provide notice of such disqualification in writing to the City officer or employee.

(B) Upon the request of any former City officer or employee, the Ethics Commission may, after a public hearing, overturn the application of the disqualification provision of subsection (d)(1)(B) if: (i) the decision that the former officer or employee engaged in official misconduct was not made after a hearing by a court, the Board of Supervisors, the Ethics Commission, an administrative body, an administrative hearing officer, or a labor arbitrator; and (ii) if the officer or employee does not have the right to appeal his or her restriction on holding future office or employment to the San Francisco Civil Service Commission.

(e) **OFFICIAL MISCONDUCT.** Official misconduct means any wrongful behavior by a public officer in relation to the duties of his or her office, willful in its character, including any failure, refusal or neglect of an officer to perform any duty enjoined on him or her by law, or conduct that falls below the standard of decency, good faith and right action impliedly required of all public officers and including any violation of a specific conflict of interest or governmental ethics law. When any City law provides that a violation of the law constitutes or is deemed official misconduct, the conduct is covered by this definition and may subject the person to discipline and/or removal from office. (Amended November 2001; March 2002; November 2003)

Sec. 15.106.

(Repealed November 2003)

**SEC. 15.107. REPORTING OF CAMPAIGN FINANCING.**

The Board of Supervisors shall, by ordinance, prescribe requirements for campaign contributions and expenditures and any limitations thereon with respect to candidates for elective office and ballot measures in the City and County.

Sec. 15.108.

(Repealed November 2003)

## ARTICLE XVI: MISCELLANEOUS PROVISIONS

- Sec. 16.100. Cable Cars.
- Sec. 16.101. Acquisition of Public Utilities.
- Sec. 16.102. Transit-First Policy.
- Sec. 16.103. Utility Revenues and Expenditures.
- Sec. 16.104. Airport Revenue Fund.
- Sec. 16.105. California Academy of Sciences.
- Sec. 16.106. Cultural, Educational and Recreational Appropriations.
- Sec. 16.107. Park, Recreation and Open Space Fund.
- Sec. 16.108. Children's Fund. [Effective through June 30, 2001]
- Sec. 16.108. Children's Fund. [Effective July 1, 2001]
- Sec. 16.109. Library Preservation Fund.
- Sec. 16.110. Revenues for Public Transit.
- Sec. 16.111. Franchises.
- Sec. 16.112. Citizen Participation; Public Notices, Hearings and Access to Public Documents.
- Sec. 16.113. Severability.
- Sec. 16.114. Powers of Inquiry and Review.
- Sec. 16.115. Heading and Captions.
- Sec. 16.116. Appendix A—Employment Provisions.
- Sec. 16.117. Appendix B—Port Agreements.
- Sec. 16.118. Appendix C—Ethics Provisions.
- Sec. 16.119. Appendix D—Building Inspection Provisions.
- Sec. 16.120. Customer Service Plan.
- Sec. 16.122. Right to Vote on Any Project that Would Place 100 Acres or More of Fill in San Francisco Bay.
- Sec. 16.123. Civilian Positions within the Police Department.
- Sec. 16.123-1. Preamble.
- Sec. 16.123-2. Public Education Enrichment Fund.
- Sec. 16.123-3. Arts, Music, Sports, and Library Programs.
- Sec. 16.123-4. Universal Access to Preschool.
- Sec. 16.123-5. Other City Support for the San Francisco Unified School District.
- Sec. 16.123-6. Expenditure Plans.
- Sec. 16.123-7. Structural Savings to the City's Budget.
- Sec. 16.123-8. Adjustments.
- Sec. 16.123-9. State Redistribution of Local Education Revenues.
- Sec. 16.123-10. Sunset.
- Sec. 16.124. Board of Supervisors Authorized to Respond to Certain Orders or Requests for the Production of City Records.
- Sec. 16.125. Domestic Partnership.

### SEC. 16.100. CABLE CARS.

In the conduct of the public transportation system there shall be maintained and operated cable car lines as follows:

1. A line commencing at Powell and Market Streets; thence along Powell Street to Jackson Street; thence along Jackson Street to Mason Street; thence along Mason Street to Columbus Avenue; thence along Columbus Avenue to Taylor Street; thence along Taylor Street to a terminal at Bay Street; returning from Bay and Taylor Streets along Taylor Street to Columbus Avenue; thence along Columbus Avenue to Mason Street; thence along Mason Street to Washington Street; thence along Washington Street to Powell Street; and thence along Powell Street to Market Street, the point of commencement.

2. A line commencing at Powell and Market Streets; thence along Powell Street to Jackson Street; thence along Jackson Street to Hyde Street; thence along Hyde Street to a terminal at Beach; returning from Beach and Hyde Streets along Hyde Street to Washington Street; thence along Washington Street to Powell Street; thence along Powell Street to Market Street, the point of commencement.

3. A line commencing at Market and California; thence along California Street to a terminal at Van Ness Avenue; returning from Van Ness Avenue along California Street to Market Street, the point of commencement.

To fully effectuate the intent of this section, these lines shall be maintained and operated at the normal levels of scheduling and service in effect on July 1, 1971; provided, however, that nothing herein contained shall prevent the increasing of the levels of scheduling and service.

#### **SEC. 16.101. ACQUISITION OF PUBLIC UTILITIES.**

It is the declared purpose and intention of the people of the City and County, when public interest and necessity demand, that public utilities shall be gradually acquired and ultimately owned by the City and County. Whenever the Board of Supervisors, as provided in Sections 9.106, 9.107 and 9.108 of this Charter, shall determine that the public interest or necessity demands the acquisition, construction or completion of any public utility or utilities by the City and County, or whenever the electors shall petition the Board of Supervisors, as provided in Sections 9.110 and 14.101 of this Charter, for the acquisition of any public utility or utilities, the Supervisors must procure a report from the Public Utilities Commission thereon.

#### **SEC. 16.102. TRANSIT-FIRST POLICY.**

The following principles shall constitute the City and County's transit-first policy and shall be incorporated into the General Plan of the City and County. All officers, boards, commissions, and departments shall implement these principles in conducting the City and County's affairs:

1. To ensure quality of life and economic health in San Francisco, the primary objective of the transportation system must be the safe and efficient movement of people and goods.

2. Public transit, including taxis and vanpools, is an economically and environmentally sound alternative to transportation by individual automobiles. Within San Francisco, travel by public transit, by bicycle and on foot must be an attractive alternative to travel by private automobile.

3. Decisions regarding the use of limited public street and sidewalk space shall encourage the use of public rights of way by pedestrians, bicyclists, and public transit, and shall strive to reduce traffic and improve public health and safety.

4. Transit priority improvements, such as designated transit lanes and streets and improved signalization, shall be made to expedite the movement of public transit vehicles (including taxis and vanpools) and to improve pedestrian safety.

5. Pedestrian areas shall be enhanced wherever possible to improve the safety and comfort of pedestrians and to encourage travel by foot.

6. Bicycling shall be promoted by encouraging safe streets for riding, convenient access to transit, bicycle lanes, and secure bicycle parking.

7. Parking policies for areas well served by public transit shall be designed to encourage travel by public transit and alternative transportation.

8. New transportation investment should be allocated to meet the demand for public transit generated by new public and private commercial and residential developments.

9. The ability of the City and County to reduce traffic congestion depends on the adequacy of regional public transportation. The City and County shall promote the use of regional mass transit and the continued development of an integrated, reliable, regional public transportation system.

10. The City and County shall encourage innovative solutions to meet public transportation needs wherever possible and where the provision of such service will not adversely affect the service provided by the Municipal Railway. (Added November 1999)

#### **SEC. 16.103. UTILITY REVENUES AND EXPENDITURES.**

(a) Receipts from each utility operated by the Public Utilities Commission shall be paid into the City and County treasury and maintained in a separate fund for each such utility. Appropriations from such funds shall be made for the following purposes for each such utility in the order named:

1. For the payment of operating expenses, pension charges and proportionate payments to such



compensation and other insurance and accident reserve funds as the Commission may establish or the Board of Supervisors may require;

2. For repairs and maintenance;

3. For reconstruction and replacements as hereinafter described;

4. For the payment of interest and sinking funds on the bonds issued by the Public Utilities Commission pursuant to this charter;

5. For extensions and improvements; and

6. For a surplus fund.

For any utility with outstanding bonds for which the indenture requires different payment priorities, the bond priorities will control over the priorities set forth in this section.

(b) For the purpose of providing funds for reconstruction and replacements due to physical and functional depreciation of each of the utilities under the jurisdiction of the Commission, the Commission must create and maintain a reconstruction and replacement fund for each such utility, sufficient for the purposes mentioned in this section, and in accordance with an established practice for utilities of similar character, which shall be the basis for the amount necessary to be appropriated annually to provide for said reconstruction and replacements.

(c) If, at the end of any fiscal year, the Controller certifies that excess surplus funds of a utility exist, from hydropower assets or water or clean water assets in excess of 25 percent of the total expenditures

*[Section 16.103 continues on page 75.]*

*[Section 16.103 continues on page 75.]*

of such utility in the previous fiscal year for costs of operation, repair, maintenance and debt service coverage and required debt service reserves, the Public Utilities Commission may transfer that surplus revenue, in whole or in part, to any other utility system under the Commission's jurisdiction on the operative date of this section..

(d) Any surplus revenue which the Public Utilities Commission unanimously finds is not required for utility purposes pursuant to sections (a) and (b) of this section may be transferred to the General Fund by the Public Utilities Commission with the concurrence of three-fourths of the Board of Supervisors upon making all of the following findings of fact and judgment:

(a) That a surplus exists or is projected to exist after meeting the requirements of this section;

(b) That there is no unfunded operating or capital program or required reserve that by its lack of funding could jeopardize bond ratings, health, safety, water supply or power production;

(c) That there is no reasonably foreseeable operating contingency that cannot be funded without General Fund subsidy; and

(d) That such a transfer of funds in all other respects reflects prudent utility practice.

The Commission shall make such findings having received reports and an affirmative recommendation from the General Manager and a public hearing, which shall have received no less than 30 days of public notice.

(e) The provisions of subsection (c) above shall not be applied in a manner that would be inconsistent with the provisions of any outstanding or future indentures, resolutions, contracts or other agreements of the City and County relating to bonded indebtedness issued in connection with the utility, or with any applicable state or federal laws. (Amended November 2002)

#### **SEC. 16.104. AIRPORT REVENUE FUND.**

Subject to the budget and fiscal provisions of this Charter:

(a) The entire gross revenue of the Airport Commission shall be set aside and deposited into a fund in the City and County treasury to be known as

the "Airport Revenue Fund." All amounts paid into the Fund shall be maintained by the Treasurer separate and apart from all other City and County funds and shall be secured by the Treasurer's official bond or bonds.

Separate accounts shall be kept with respect to receipts and disbursements of each airport under the jurisdiction of the Commission.

(b) Monies in the Airport Revenue Fund including earnings thereon shall be appropriated, transferred, expended or used for the following purposes pertaining to the financing, maintenance and operation of airports and related facilities owned, operated or controlled by the Commission and only in accordance with the following priority:

1. The payment of operation and maintenance expenses for such airports or related facilities;

2. The payment of pension charges and proportionate payments to such compensation and other insurance or outside reserve funds as the Commission may establish or the Board of Supervisors may require with respect to employees of the Commission;

3. The payment of principal, interest, reserve, sinking fund and other mandatory funds created to secure revenue bonds hereafter issued by the Commission for the acquisition, construction or extension of airports or related facilities owned, operated or controlled by the Commission;

4. The payment of principal and interest on general obligation bonds heretofore or hereafter issued by the City and County for airport purposes;

5. Reconstruction and replacement as determined by the Commission or as required by any airport revenue bond ordinance duly adopted and approved;

6. The acquisition of land, real property or interest in real property for, and the acquisition, construction, enlargement and improvement of new and existing buildings, structures, facilities, utilities, equipment, appliances and other property necessary or convenient for the development or improvement of any airports and heliports owned, controlled or operated by the Commission in the promotion and accommodation of air commerce or navigation and matters incidental thereto;

7. The return and repayment into the General Fund of the City and County of any sums paid by the City and County from funds raised by taxation for the payment of interest on and principal of any general obligation bonds previously issued by the City and County for the acquisition, construction and improvement of the San Francisco International Airport;

8. For any other lawful purpose of the Commission including, but not limited to, transfer to the General Fund during each fiscal year of 25 percent, or such lesser percentage as the Board of Supervisors shall establish, of the non-airline revenues as a return upon the City and County's investment in the Airport. "Non-airline" revenues means all airport revenues from whatever source less revenues from airline rentals and charges to airlines for use of Airport facilities.

#### **SEC. 16.105. CALIFORNIA ACADEMY OF SCIENCES.**

All buildings and improvements erected by or under the authority of the California Academy of Sciences, in or on property owned or controlled by the City and County, including but not limited to the Steinhart Aquarium, the original Natural History Museum, the Simson African Hall and the additions housing, among other things, the Alexander F. Morrison Planetarium and Auditorium, are the property of the City and County. However, the buildings and improvements, and the activities and personnel therein shall be managed and controlled exclusively by the California Academy of Sciences, except that employees of the City and County shall be subject to the personnel provisions of this Charter and their compensation fixed in accordance with this Charter and City and County funds are subject to the financial provisions of this Charter.

The California Academy of Sciences shall submit to the Mayor and Board of Supervisors an annual financial statement of its activities in connection with the operation of the buildings described in this section.

Nothing herein shall abrogate any trust by which any property of the California Academy of Sciences has been acquired.

#### **SEC. 16.106. CULTURAL, EDUCATIONAL AND RECREATIONAL APPROPRIATIONS.**

The Board of Supervisors shall annually appropriate:

1. To the Arts Commission, the revenue from a tax of one-eighth of one cent (\$0.00125) per one hundred dollars (\$100) of taxable assessed valuation in the City and County for maintaining a symphony orchestra;

2. To the Asian Art Commission, an amount sufficient for the purpose of maintaining, displaying, and providing for the security of the City and County's collection of Asian art;

3. To the California Academy of Sciences, funds necessary for the maintenance, operation and continuance of the Steinhart Aquarium; the Board of Supervisors shall have the power to furnish to the California Academy of Sciences such funds as the Board shall deem proper for the maintenance, operation and continuance of any or all other of the buildings and improvements placed under the control of the California Academy of Sciences;

4. To the Fine Arts Museums Board of Trustees, an amount sufficient for the purpose of maintaining, operating, providing for the security of, expanding and superintending the fine arts museums and for the purchase of objects of art, literary productions and other personal property;

5. To the War Memorial and Performing Arts Center Board of Trustees, an amount sufficient to defray the cost of maintaining, operating and caring for the War Memorial and Performing Arts Center;

6. To the Library Commission, the revenue from a minimum tax of one cent (\$0.01) per hundred dollars (\$100) of taxable assessed valuation for constructing, maintaining and improving the library system of the City and County;

7. To the Recreation and Park Commission, the revenue from a minimum tax of two and one-half cents (\$0.025) per one hundred dollars (\$100) of taxable assessed valuation for constructing, maintaining and improving parks and squares, and the revenue



from a minimum tax of one and three quarter cents (\$.0175) per one hundred dollars (\$100) of taxable assessed valuation for constructing, maintaining and improving playgrounds; and

8. To the Arts Commission, for the City and County-owned Community Cultural Centers, an amount sufficient for the purpose of maintaining, operating, providing for the security and superintending of their facilities and grounds, and for the purchase of objects of art, literary productions, and other property, and for their expansion and continuance in the City and County of San Francisco.

#### **SEC. 16.107. PARK, RECREATION AND OPEN SPACE FUND.**

(a) Establishment of Fund. There is hereby established the Park, Recreation and Open Space Fund ("Fund") to be administered by the Recreation and Park Department ("Department") as directed by the Recreation and Park Commission ("Commission"). Monies therein shall be expended or used solely by the Department, subject to the budgetary and fiscal provisions of the Charter, to provide enhanced park and recreational services and facilities.

(b) Annual Set-aside. The City will continue to set aside from the annual tax levy, for a period of thirty years starting with the fiscal year 2000-2001, an amount equivalent to an annual tax of two and one-half cents (\$.025) for each one hundred dollars (\$100) assessed valuation. Revenues obtained thereby shall be in addition to, and not in place of, any sums normally budgeted for the Department and, together with interest, shall be deposited into the Park, Recreation and Open Space Fund.

The Controller shall set aside and maintain such an amount, together with any interest earned thereon, in the Fund, and any amount unspent or uncommitted at the end of the fiscal year shall be carried forward to the next fiscal year and, subject to the budgetary and fiscal limitations of this Charter, shall be appropriated then or thereafter for the purposes specified in this Section.

(c) Enhanced Revenue and Efficiency Incentives for the Department. It is the policy of the City and County of San Francisco to give the Department greater incentives to improve operational efficiencies

and to increase revenue. Increases in revenues and savings shall be dedicated as follows:

1. Actual net increases in Department-generated revenues, compared to the previous fiscal year, shall be dedicated to capital and/or facility maintenance improvements to park and recreational facilities;
2. New revenues from outside sources, such as grant or foundation support, shall be used only for enhancement of park and recreational programs, including, but not limited to, capital and/or facility maintenance improvements; and
3. Overall Department expenditure savings shall be retained by the Department to be dedicated to one-time expenditures.

The City shall implement its efforts to increase revenues in a manner consistent with the City's policy of charging City residents a lower fee than that charged nonresidents for the use and enjoyment of Department property.

(d) Revenue Bond Authority. Notwithstanding the limitations set forth in Sections 9.107, 9.108, and 9.109 of this Charter, the Commission may request, and upon recommendation of the Mayor the Board of Supervisors may authorize, the issuance of revenue bonds or other evidences of indebtedness, or the incurrence of other obligations, secured by the Park, Recreation and Open Space Fund for acquisition, construction, reconstruction, rehabilitation and/or improvement of real property and/or facilities and for the purchase of equipment.

(e) Fund Expenditures on Commission Property. Any real property acquired with monies from the Fund, including the proceeds of obligations issued pursuant to subsection (d), above, shall be placed under the jurisdiction of the Commission within the meaning of Section 4.113. Fund expenditures to improve, construct, reconstruct or rehabilitate real property shall be limited to property under the jurisdiction of the Commission or property under the jurisdiction of another City department or public agency and subject to an agreement with the Department for its use, management and maintenance.

(f) Use and Allocation of the Fund. Each year, the Commission shall adopt a budget for the allocation and expenditure of the Fund in compliance with the

budget and fiscal provisions of the Charter, which shall be adopted by the Commission only after a written determination by the Planning Department of conformity with the City's General Plan.

The annual budget for allocation of the Fund that is adopted by the Commission and submitted by the Mayor to the Board of Supervisors shall include:

1. Allocations for after-school recreation programs, urban forestry, community gardens, volunteer programs, and a significant natural areas management program in the amounts allocated for each of those programs from the Park and Open Space Fund in the Department's fiscal year 1999-2000 budget, to the extent that such programs are not so funded in the Department's operating budget or in the budget of another City department.
2. An allocation necessary to ensure that 3% of the monies to be deposited in the Fund during the upcoming fiscal year pursuant to subsection (b), above, be available at the start of the fiscal year as an undesignated contingency reserve.
3. An allocation of not less than 5% of the monies to be deposited in the Fund during the upcoming fiscal year pursuant to subsection (b), above. These monies shall be dedicated to the acquisition of real property identified in the Capital Plan discussed in subsection (g), below. Any portion of these monies that remains unspent or uncommitted at the end of any fiscal year shall be carried forward, with interest thereon, to the next fiscal year for the purposes set forth herein. The 5% allocation need not be included in the budget submitted to the Board of Supervisors for an upcoming fiscal year to the extent that the total City expenditure for acquisition of property to be placed under the jurisdiction of the Commission for the period commencing with fiscal year 2000-01 and ending with the close of the immediately preceding fiscal year exceeds an amount equal to 5% of the total amount appropriated, or to be appropriated, to the Fund for the period commencing with fiscal year 2000-01 and ending with the close of the upcoming fiscal year.

Prior to the adoption of the annual budget by the Recreation and Park Commission, the Department, in conjunction with the Citizens Advisory Committee

discussed in subsection (h), below, shall conduct two public hearings in the evenings or on weekends to permit the public to comment on the Department's full budget and programming allocations.

(g) Planning and Reporting Measures. The Commission shall adopt several long-term plans that include, but are not limited to, the following:

1. Strategic Plan. By December 1, 2000, the Department shall prepare, for Commission consideration and approval, a five-year Strategic Plan, to be updated annually, that establishes or reaffirms the mission, vision, goals and objectives for the Department. This Strategic Plan will be used to guide the Department's work over the next five years.
2. Capital Plan. By December 1, 2000, the Department shall prepare, for Commission consideration and approval, a five-year Capital Plan, to be updated annually, for the development, renovation, replacement and maintenance of capital assets, and the acquisition of real property. In its Capital Plan the Department shall propose specific properties to be acquired for open space, recreation facilities, significant natural areas, and other recreational purposes and shall prioritize capital and maintenance improvements and provide budgets associated with such improvements. Capital and acquisition projects will be designated by the Department based upon needs identified by the Department and the community. Capital projects will include the planning, design and construction of projects that rehabilitate, restore or replace existing facilities or that develop new facilities. Acquisition projects will include, but will not be limited to, purchase, lease, exchange, eminent domain, license or any other vehicle giving the City a right, whether revocable or not, to use real property, or any interest therein, or any improvement or development rights thereon, for recreational purposes, including, but not limited to, protection of natural resources, development of community gardens and development of urban trails, provided that, notwithstanding anything herein to the contrary, no acquisition of less than fee simple title may be for a term of less than ten years.

3. Operational Plan. By December 1, 2001, the Department shall prepare, for Commission consideration and approval, a five-year Operational Plan, to be updated annually, detailing proposed improvements to the Department's services and responsiveness to customer needs. The annual Operational Plan will serve as a tool for improving the operational efficiency of the Department and will include measurable performance standards for the Department. The Department shall prepare the initial Operational Plan after conducting a performance audit of Departmental operations. Thereafter, the Department will conduct periodic performance audits.

The Commission shall establish a community input process, which may include the Citizens Advisory Committee discussed in section (h), below, through which citizens of the City and County of San Francisco will provide assistance to the Commission as it develops criteria and establishes the plans required by this subsection. Prior to the adoption of each five-year plan, the Department shall conduct at least five hearings in locations distributed geographically throughout the City to receive and to consider the public's comments upon the plan. The Commission shall ensure that at least two of these hearings are held in the evenings or on weekends for the public's convenience.

The Department shall report annually, as a part of the City's budget process, to the Mayor and to the Board of Supervisors, on the status of the plans and on the status of Department goals, objectives and capital project timelines for the current fiscal year, as well as provide reports on performance measures required by this Section.

(h) Citizens Advisory Committee. The Board of Supervisors shall establish, by ordinance, a Citizens Advisory Committee.

(i) Environmental and Design Guidelines. The Commission shall adopt written environmental and design guidelines for new facilities, parks, and open spaces and the renovation or rehabilitation of existing facilities, parks, and open spaces. These guidelines shall be consistent with any applicable standards of the Art and Planning Commissions.

(j) Capital Projects. Notwithstanding the provisions of Section 3.104 of this Charter, the Commission shall have the authority to prepare and approve the plans, specifications and estimates for all contracts and orders, and to award, execute and manage all contracts and orders, for capital projects on real property under its jurisdiction or management. Capital projects supported by the Fund, other than those projects identified by the Department as long-term projects, must be fully constructed within three years of the initial budget allocation for those projects. Long-term projects must be fully constructed within five years of the initial budget allocation. Any exceptions to this provision must be authorized by a two-thirds vote of the Commission.

The Recreation and Park Department and the Department of Public Works ("DPW") shall establish a committee to develop a written, capital implementation program, for the consideration of both Departments, that will govern DPW's involvement in capital projects undertaken by the Recreation and Park Department. In developing this program, the committee shall consider the Capital Plan discussed in subsection (g), above, staffing levels in both Departments, and the availability of other resources.

(k) Unspent Funds. All unspent funds in the Park and Open Space Fund on June 30, 2000 shall continue to be held for the use and benefit of the Department. These monies shall be expended in a manner consistent with the general purposes for which they were originally appropriated.

In addition to the requirements set forth by this Section, all expenditures from the Fund shall be subject to the budget and fiscal provisions of the Charter. (Amended March 2000)

#### **SEC. 16.108. CHILDREN'S FUND. [Effective through June 30, 2001]**

(a) There is hereby established a fund to expand children's services, which shall be called the Children's Fund and shall be maintained separate and apart from all other City and County funds and appropriated by annual or supplemental appropriation. Monies therein shall be expended or used solely to provide expanded services for children as provided in this section.



(b) There is hereby set aside for the Fund, from the revenues of the property tax levy, revenues in an amount equivalent to an annual tax of one and one-quarter cents (\$.0125) per one hundred dollars (\$100) of assessed valuation for the first fiscal year which begins 90 days or more after the election which approves this section, and revenues equivalent to an annual tax of two and one half cents (\$.025) per one hundred dollars (\$100) of assessed valuation for each of the following nine fiscal years. The Treasurer shall set aside and maintain such amount, together with any interest earned thereon, in the Fund, and any amounts unspent or uncommitted at the end of any fiscal year shall be carried forward to the next fiscal year and, subject to the budgetary and fiscal limitations of this Charter, shall be appropriated then or thereafter for the purposes specified in this section.

(c) Monies in the Fund shall be used exclusively to provide services to children less than 18 years old, above and beyond services funded prior to adoption of this section. To this end, monies from the Fund shall not be appropriated or expended to fund services provided during fiscal year 1991-1992, whether or not the cost of such services increases, or appropriated or expended for services which substitute for or replace services provided during fiscal years 1990-1991 or 1991-1992, except and solely to the extent of services for which the City ceases to receive federal, state or private agency funds, which the funding agency required to be spent only on the services in question.

(d) Services for children eligible for Fund assistance shall include only child care; job readiness, training and placement programs; health and social services (including pre-natal services to pregnant adult women); education programs; recreation; delinquency prevention; and library services, in each case for children.

Services for children paid for by the Fund shall not include:

1. For example, and not for purposes of limitation, services provided by the Police Department or other law enforcement agencies; by courts, the District Attorney, Public Defender or City Attorney; by the Fire Department; detention or probation services mandated by state or federal law; or public transportation;

2. Any service which benefits children incidentally or as members of a larger population including adults;

3. Any service for which a fixed or minimum level of expenditure is mandated by state or federal law, to the extent of the fixed or minimum level of expenditure;

4. Acquisition of any capital item not for primary and direct use by children;

5. Acquisition (other than by lease for a term of ten years or less) of any real property; or

6. Maintenance, utilities or any similar operating costs of any facility not used primarily and directly by children, or of any recreation or park facility (including a zoo), library, facility, or hospital.

(e) During each fiscal year, a minimum of 25 percent of such funds shall be used for child care, a minimum of 25 percent for job readiness, training and placement, and a minimum of 25 percent for health and social services for children (including pre-natal services for pregnant adult women). Beginning with the fifth fiscal year during which funds are set aside under this section, the Board of Supervisors may modify or eliminate these minimum requirements.

(f) No later than December of each calendar year, the Mayor shall prepare and present to the Board of Supervisors a Children's Services Plan. The Plan shall propose goals and objectives for the Fund for the fiscal year beginning the following July 1, propose expenditures of monies from the Fund for the fiscal year beginning the following July 1 and designate the City department which would administer the funded programs. In connection with preparation of the Plan, and prior to the date required for presentation to the Board of Supervisors, the Health Commission, Juvenile Probation Commission, Human Services Commission, Recreation and Parks Commission and Public Library Commission shall each hold at least one public hearing on the Plan. Joint hearings may be held to satisfy this requirement. Any or all of the commissions may also hold additional hearings before or after presentation of the Plan.

(g) The Fund shall be used exclusively to increase the aggregate City appropriations and expenditures for those services for children which are eligible to be paid from the Fund (exclusive of



expenditures mandated by state or federal law). To this end, the City shall not reduce the amount of such City appropriations for eligible services (not including appropriations from the Fund and exclusive of expenditures mandated by state or federal law) in any of the ten years during which funds are required to be set aside under this section below the higher of the amount so appropriated for the fiscal year 1990-1991 or the amount so appropriated for the fiscal year 1991-1992, in either case as adjusted. Not later than three months after the election which approves this section, the Controller shall calculate and publish the applicable base amount, specifying by department and program each amount included in the base amount. The base amount shall be adjusted for each year after the base year, based on calculations consistent from year to year, by the percentage increase or decrease in aggregate City appropriations from the base year, as estimated by the Controller. Errors in the Controller's estimate of appropriations for a fiscal year shall be corrected by an adjustment in the next year's estimate. For purposes of this subsection, aggregate City appropriations shall not include funds granted to the City by private agencies or appropriated by other public agencies and received by the City. Within 90 days following the end of each fiscal year through 2001-2002, the Controller shall calculate and publish the actual amount of City appropriations for services for children which are eligible to be paid from the Fund (exclusive of expenditures mandated by state or federal law).

#### **SEC. 16.108. CHILDREN'S FUND.**

**[Effective July, 1 2001]**

(a) **Fund for Children's Services.** Operative July 1, 2001, there is hereby established a fund to expand children's services, which shall be called the Children's Fund ("Fund"). Monies in the Fund shall be expended or used only to provide services for children as provided in this section.

(b) **Goals.** The goals of expenditures from the Fund shall be:

*[Section 16.108 continues on page 80B.]*

(1) To ensure that San Francisco's children are healthy, ready to learn, succeed in school and live in stable, safe, and supported families and communities;

(2) To reach children in all neighborhoods;

(3) To the maximum extent reasonable, to distribute funds equitably among services for infants and preschoolers, elementary school age children and adolescents;

(4) To focus on the prevention of problems and on supporting and enhancing the strengths of children, youth and their families;

(5) To strengthen collaboration between the City and County of San Francisco and the San Francisco Unified School District;

(6) To fill gaps in services and to leverage other resources whenever feasible; and

(7) To foster projects initiated by San Francisco youth.

(c) **Amount.** There is hereby set aside for the Fund, from the revenues of the property tax levy, revenues in an amount equivalent to an annual tax of three cents (\$.03) per one hundred dollars (\$100) of assessed valuation for each fiscal year beginning with July 1, 2001—June 30, 2002, and ending with July 1, 2015—June 30, 2016. If the 2010 U. S. Census shows that children make up a percentage of the population of the City and County that is at least two percentage points more than their percentage as shown in the 2000 U. S. Census, then the amount of the property tax levy set aside under this section shall be increased for each fiscal year beginning after publication of the 2010 Census. The increase shall be in an amount equal to: one-quarter cent (\$.0025) per one hundred dollars of assessed valuation, for each two full percentage points of increase in the percentage of the City and County population that is made up of children. The Fund shall be maintained separate and apart from all other City and County funds and appropriated by annual or supplemental appropriation.

(d) **New Services.** Monies in the Fund shall be used exclusively for the costs of services to children less than 18 years old provided as part of programs that predominantly serve children less than 18 years old, above and beyond services funded from sources other than the previous Children's Fund prior to July 1, 2001. To this end, monies from the Fund shall not

be appropriated or expended for services that received any of the funds included in the higher of the Controller's baseline budget covering July 1, 2000—June 30, 2001 appropriations, or the Controller's baseline budget covering July 1, 1999—June 30, 2000 appropriations, whether or not the cost of such services increases. Nor shall monies from the Fund be appropriated or expended for services that substitute for or replace services included or partially included in the higher of the two baseline budgets, except and solely to the extent that the City ceases to receive federal, state or private agency funds that the funding agency required to be spent only on those services. The Controller's baseline budget shall mean the Controller's calculation of the actual amount of City appropriations for services for children that would have been eligible to be paid from the Fund but are paid from other sources.

(e) **Eligible Services.** Services for children eligible for Fund assistance shall include only:

(1) Affordable child care and early education;

(2) Recreation, cultural and after-school programs, including without limitation, arts programs;

(3) Health services, including prevention, education, mental health, and pre-natal services to pregnant women;

(4) Training, employment and job placement;

(5) Youth empowerment and leadership development;

(6) Youth violence prevention programs;

(7) Youth tutoring and educational enrichment programs; and

(8) Family and parent support services for families of children receiving other services from the Fund.

(f) **Excluded Services.** Notwithstanding subsection (e), services for children paid for by the Fund shall not include:

(1) Services provided by the Police Department or other law enforcement agencies, courts, the District Attorney, Public Defender, City Attorney; or the Fire Department; detention or probation services mandated by state or federal law; or public transportation;

(2) Any service that benefits children incidentally or as members of a larger population including adults;

(3) Any service for which a fixed or minimum level of expenditure is mandated by state or federal law, to the extent of the fixed or minimum level of expenditure;

(4) Acquisition of any capital item not for primary and direct use by children;

(5) Acquisition (other than by lease for a term of ten years or less) of any real property; or

(6) Maintenance, utilities or any similar operating costs of any facility not used primarily and directly by children, or of any recreation or park facility (including a zoo), library, or hospital.

(g) **Baseline.** The Fund shall be used exclusively to increase the aggregate City appropriations and expenditures for those services for children that are eligible to be paid from the Fund (exclusive of expenditures mandated by state or federal law). To this end, the City shall not reduce the amount of such City appropriations for eligible services (not including appropriations from the Fund and exclusive of expenditures mandated by state or federal law) in any of the fifteen years during which funds are required to be set aside under this section below the amount so appropriated for the fiscal year 2000-2001 ("the base year") as set forth in the Controller's baseline budget, as adjusted ("the base amount"). The base amount shall be adjusted for each year after the base year by the Controller based on calculations consistent from year to year by the percentage increase or decrease in aggregate City and County discretionary revenues. In determining aggregate City and County discretionary revenue, the Controller shall only include revenues received by the City and County that are unrestricted and may be used at the option of the Mayor and the Board of Supervisors for any lawful City purpose. The method used by the Controller to determine discretionary revenues shall be consistent with method used by the Controller to determine the Library and Children's Baseline Calculations dated June 20, 2000, which the Controller shall place on file with the Clerk of the Board in File No. 000952. Errors in the Controller's estimate of discretionary revenues for a fiscal year shall be corrected by an adjustment in the next year's estimate. Within 90 days following the end of each fiscal year through 2014-2015, the Controller shall calculate and publish the actual amount of City

appropriations for services for children that would have been eligible to be paid from the Fund but are paid from other sources, separately identifying expenditures mandated by state or federal law.

(h) **Three-Year Planning Cycle.** To provide time for community participation and planning, and to ensure program stability, appropriations from the Fund for all fiscal years beginning after June 30, 2004 shall be made pursuant to a three-year planning cycle as set forth in subsections (h) through (l). During every third fiscal year beginning with the 2001-2002 fiscal year, the City shall prepare a Community Needs Assessment to determine services eligible to receive moneys from the Fund. During every third fiscal year beginning with the 2002-2003 fiscal year, the City shall prepare a Children's Services and Allocation Plan ("the Plan"), based on the Community Needs Assessment approved during the previous year. The Board of Supervisors may modify an existing Community Needs Assessment or Plan, provided that any modification shall occur only after a noticed public hearing. All appropriations from the Fund shall be consistent with the most recent Plan, provided that the Board of Supervisors may approve an amendment to the Plan at the same time it approves an appropriation.

(i) **Community Needs Assessment and Children's Services and Allocation Plan.**

(1) The Community Needs Assessment and the Plan shall be in writing, shall be made available to the public in draft form not later than January 31 of each fiscal year in which they are required, shall be presented by March 31 of each such fiscal year to the commissions listed in subsection (m)(3) for review and comment, and by April 30 of each such fiscal year shall be presented to the Board of Supervisors for approval.

(2) Prior to preparation of each draft Community Needs Assessment, the City shall hold at least one public hearing in each geographical area defined in Charter Section 13.110. The City shall also make available opportunities for parents, youth, and agencies receiving monies from the Fund to provide information for the Community Needs Assessment. The Community Needs Assessment shall include the results of a citywide survey of parents and youth to be conducted by the Controller every three years.

(3) The Plan shall include all services for children furnished or funded by the City or funded by another governmental or private entity and administered by the City, whether or not they received or may receive monies from the Fund. The Plan shall be outcome-oriented and include goals, measurable and verifiable objectives and measurable and verifiable outcomes.

(4) The Plan shall state how all services receiving money from the Fund will be coordinated with other children's services. The Plan shall specify amounts of funding to be allocated: (i) toward achieving specified goals, measurable and verifiable objectives and measurable and verifiable outcomes, (ii) to specified service models; and (iii) for specific populations and neighborhoods. The Plan shall also state the reasons for the allocations and demonstrate how the allocations are consistent with the Community Needs Assessment. A minimum of three percent of the funding allocated under the Plan shall be for youth-initiated projects.

(j) **Evaluation.** The Plan shall include an evaluation of services that received money from the Fund at any time during the last three fiscal years. The evaluation shall involve those who use the funded services and other parents and youth.

(k) **Failure of Board to Act.** If the Board of Supervisors has not approved a Community Needs Assessment before the first day of the fiscal year during which the Plan is to be prepared, the Plan shall be based on the Community Needs Assessment as originally submitted to the Board of Supervisors.

(l) **Selection of Contractors.** Except for services provided by City employees, the Fund shall be expended through contractors selected based on their responses to one or more requests for proposals issued by the City. The City shall award contracts to coincide with the City's fiscal year starting July 1.

(m) **Implementation.**

(1) In implementation of this section, facilitating public participation and maximizing availability of information to the public shall be primary goals.

(2) So long as there exists within the executive branch of City government a Department of Children, Youth and Their Families, or an equivalent department or agency as its successor, that department shall administer the Children's Fund and prepare the Community Needs Assessment and the Plan pursuant to

this section. If no such department or agency exists, the Mayor shall designate a department or other City body to administer the Children's Fund pursuant to this section.

(3) In addition to all other hearings otherwise required, the Recreation and Park, Juvenile Probation, Youth, Health and Human Services Commissions shall each hold at least one separate or joint hearing each fiscal year to discuss issues relating to this section. The Department of Children, Youth and Their Families, or other agency as described above in section (m)(2), shall consult with the Recreation and Park Department, Arts Commission, Juvenile Probation Department, Unified School District, Health Department, Department of Human Services, Commission on the Status of Women, Police Department, Library Department and Municipal Transportation Agency in preparation of portions of the Community Needs Assessment and the Plan that relate to their respective activities or areas of responsibility.

(4) The Board of Supervisors may by ordinance implement this section.

(n) **Advisory Committee.** There shall be a Children's Fund Citizens' Advisory Committee ("the Committee") that shall consist of 15 members, each appointed by the Mayor to a three-year term, to serve at the Mayor's pleasure. At least three members of the Committee shall be parents and at least three members shall be less than 18 years old at the time of appointment. For each of the following areas, there shall be at least one Committee member with professional expertise in that area: early childhood development, childcare, education, health, recreation and youth development. The Committee shall meet at least quarterly, and shall advise the department or agency that administers the Children's Fund and the Mayor concerning the Children's Fund. The Committee shall convene by July 1, 2001. Each member of the Committee shall receive copies of each proposed Community Needs Assessment and each Plan (including the evaluation required as part of the Plan). Members of the Committee shall serve without pay, but may be reimbursed for expenses actually incurred.

(o) **Unspent Funds.** All unspent funds in the Children's Fund created by former Charter Section 16.108 shall be transferred to the Children's Fund established herein.



(p) **Effect of Procedural Errors.** No appropriation, contract or other action shall be held invalid or set aside by reason of any error, including without limitation any irregularity, informality, neglect or omission, in carrying out procedures specified in subsections (h) through (n) unless a court finds that the party challenging the action suffered substantial injury from the error and that a different result would have been probable had the error not occurred. (Amended November 2000)

#### **SEC. 16.109. LIBRARY PRESERVATION FUND.**

(a) There is hereby established a fund for libraries, which shall be called the Library Preservation Fund and shall be maintained separate and apart from all other City and County funds and appropriated by annual or supplemental appropriation pursuant to this Charter. Monies therein shall be expended or used exclusively by the Library Department solely to provide library services and materials and to operate library facilities in accordance with this section.

(b) So long as the Library Preservation Fund exists as provided in this section, the following requirements shall apply:

1. The Library Department shall operate no fewer than 26 branch libraries, a main library and a library facility for the blind (which may be at a branch or main library);

2. Not later than November 1, 1994, at least one public hearing shall be held at the main and each branch library, which at least one library commissioner shall attend and which shall receive the results of a survey of users' preferences as to the facility's operating hours;

3. Effective no later than January 1, 1995, the Library Commission shall establish service hours for the main and each branch library, which shall not be reduced during the five years beginning January 1, 1995; total annual average service hours shall be at least 1028 hours per week (that is, a level approximating the total service hours during fiscal year 1986-1987);

4. The public hearing process specified in paragraph 2 shall be repeated at five year intervals, being completed no later than November 1 of the year in question; and

5. Following the subsequent public hearings, the Library Commission may modify the individual and aggregate service hours established under paragraph 3, for the five-year period beginning January 1, 2000 or January 1, 2005 respectively, based on a comprehensive assessment of needs and the adequacy of library resources.

Increasing library hours throughout the system and acquiring books and materials shall receive priority in appropriating and expending fund monies to the extent the funds are not needed to meet the preceding requirements of this subsection. Any requirement of this subsection may be modified to the extent made necessary by a fire, earthquake or other event which renders compliance with the requirement impracticable.

(c) There is hereby set aside for the Library Preservation Fund, from the revenues of the property tax levy, the revenues in an amount equivalent to an annual tax of two-and-one-half cents (\$0.025) per one hundred dollars (\$100) of assessed valuation for each of the fifteen fiscal years beginning with fiscal year 1994-1995. The Treasurer shall set aside and maintain such amount, together with any interest earned thereon, in the Fund, and any amount unspent or uncommitted at the end of any fiscal year shall be carried forward to the next fiscal year and, subject to the budgetary and fiscal limitations of this Charter, shall be appropriated then or thereafter solely for the purposes specified in this section. The Fund shall be in addition to any other funds set aside for libraries.

(d) The Fund shall be used to increase the aggregate City appropriations and expenditures for services, materials and operation of facilities provided by the Library Department. To this end, the City shall not reduce the amount of City appropriations for the Library Department (not including appropriations from the Library Preservation Fund) in any of the fifteen years during which funds are required to be set aside under this section below the amount so appropriated, including appropriations from the Children's Fund pursuant to this Charter and including all supplemental appropriations, for the fiscal year 1992-1993, adjusted as provided below. The base amount shall be adjusted for each fiscal year after 1992-1993 based on calculations consistent from year-to-year, by the percentage increase or decrease in aggregate City appropriations for all purposes from

the base year as estimated by the Controller. Errors in the Controller's estimate of appropriations for a fiscal year shall be corrected by adjustment in the next year's estimate. For purposes of this subsection, (i) aggregate City appropriations shall not include funds granted to the City by private agencies or appropriated by other public agencies and received by the City, and (ii) Library Department appropriations shall not include funds appropriated to the Library Department to pay for services of other City departments or agencies, except for departments or agencies for whose services the Library Department was appropriated funds in fiscal year 1993-1994. Within 90 days following the end of each fiscal year through fiscal year 2008-2009, the Controller shall calculate and publish the actual amount of City appropriations for the Library Department.

#### **SEC. 16.110. REVENUES FOR PUBLIC TRANSIT.**

It is the policy of the City and County of San Francisco to use parking-related revenues, where available, to support public transit. To the extent allowed by law, there is hereby set aside from the general revenues of the City and County for the operations and capital improvements of the Department of Public Transportation for each fiscal year an amount equivalent to the City and County's share of revenues realized from:

1. Parking meters, except those amounts to be credited to the off-street parking fund as provided in Traffic Code Section 213 and those amounts collected from parking meters operated by the Recreation and Park Department and the Port Commission;

2. City-owned off-street parking facilities, including facilities leased to private owners and non-profit corporations, except those amounts to be credited to the off-street parking fund or otherwise dedicated as provided in Traffic Code Section 213 and except those amounts generated from any parking on or below any land or facilities under the jurisdiction of the Recreation and Park Department;

3. Fines, forfeited bail, or penalties for parking violations, except those amounts to be credited to the courthouse construction fund as provided in Administrative Code Section 10.117-35; and,

4. The tax on occupation of parking spaces, except for the amounts attributable to any surcharges imposed since 1978 and except for the amounts set aside for senior citizens' programs as provided in Section 615 of Part III of the Municipal Code.

In determining the amounts to be credited to the off-street parking fund as set forth in subparagraphs (1) and (2) above, sufficient revenues shall be credited to such fund to ensure adequate funding for the purposes for which such fund was created, including without limitation the following: capital outlays for the acquisition of property, construction, completion, and leasing of public parking lots, storage space, garages, structures, and other off-street parking facilities; maintenance and operation of such parking facilities; public works improvements that increase the supply of on-street parking; engineering and construction of on-street parking bays in parking meter districts in neighborhood commercial districts; installation and maintenance of on- and off-street parking meters; and the administration of the parking programs of the City and County.

The Treasurer shall set aside and maintain said amounts, together with any interest earned thereon, in a special fund, and any amounts unspent or uncommitted at the end of any fiscal year shall be carried forward to the next fiscal year and, subject to the budgetary and fiscal limitations of the Charter, shall be appropriated then or thereafter for the purposes specified in this section.

To the extent allowed by law, the Board of Supervisors may, by ordinance, dedicate additional revenues to the department of public transportation from sources including, but not limited to, gas taxes, motor vehicle licensing taxes or other available motor vehicle-related revenue sources.

#### **SEC. 16.111. FRANCHISES.**

The Board of Supervisors shall have the power by ordinance to grant to any person, firm or corporation, any franchise, including any renewal, extension, transfer or amendment thereof, for the use of any public right-of-way or public place within the boundaries of the City for the purpose of providing services to customers. Franchises may be granted only by a competitive process. Each franchise shall contain a specific and definite termination date which shall not be more than 25 years after its first effective date.

**SEC. 16.112. CITIZEN PARTICIPATION; PUBLIC NOTICES, HEARINGS AND ACCESS TO PUBLIC DOCUMENTS.**

The publication of and full public access to public documents, except for those subject to confidentiality, shall be as required by law.

Notice shall be published in a timely manner before any public hearing, and shall include a general description of said hearing.

Notice shall be given, and public hearings held before:

(a) Any facility used by the public, including but not limited to libraries and health facilities, shall be closed, eliminated, or its level of services reduced, or prior to the leasing, selling or transfer of management of said facility;

(b) Any significant change in the operating schedule or route of a street railway, bus line, trolley bus line or cable car line is adopted;

(c) Any fee, schedule of rates, charges or fares which affects the public is instituted or changed; should any such action be approved, the result shall also be noticed; or

(d) Any amendment to the general plan, change in zoning or change in land use is adopted.

In addition, notice shall be given for the following:

(e) Any sale, lease, rental, encumbrance or exchange of real property held by the City and County;

(f) Special assessment districts and protests of special assessment districts;

(g) Requests for bids or proposals for the purchase or lease of materials, supplies, equipment, services, construction, work or improvements involving expenditure of \$50,000 or more; notice shall also be given after any such award is made; the Board may by ordinance reduce the dollar threshold for such notice; and

(h) Polling places and precinct officers for any election.

**SEC. 16.113. SEVERABILITY.**

If any provision of this Charter, or its application to any person or circumstances is held invalid, the remainder of this Charter, and the application of such provision to other persons or circumstances, shall not be affected.

**SEC. 16.114. POWERS OF INQUIRY AND REVIEW.**

The Mayor, the City Administrator, the Controller, or any board or commission appointed by the Mayor, relative solely to the affairs under its control, may require such periodic or special reports of departmental costs, operations and expenditures, examine the books, papers, records and accounts of, and inquire into matters affecting the conduct of any department or office of the City and County, and for that purpose may hold hearings, subpoena witnesses, administer oaths and compel the production of books, papers, testimony and other evidence. The Board of Supervisors shall have the same powers of inquiry and review, including the power to issue subpoenas and compel the production of evidence, with respect to matters affecting the conduct of any department or office of the City and County.

**SEC. 16.115. HEADING AND CAPTIONS.**

The headings and captions in this Charter shall have no bearing on the meaning of the text, which shall be the exclusive source for interpretation and construction.

**SEC. 16.116. APPENDIX A—EMPLOYMENT PROVISIONS.**

The following sections of the Charter of 1932, as amended, shall remain in effect as a part of this Charter as "Appendix A—Employment Provisions," except that in instance of conflict or inconsistency between these sections of the Charter of 1932 and the body of this Charter, this Charter shall prevail, and subject to the following limitations and amendments:

1. All references to sections of "the Charter" or "this Charter" shall be construed to refer to the Charter of 1932, as defined above;

2. All definitions or descriptions included through such references shall remain in force, unless in conflict or inconsistent with definitions or descriptions in this Charter, or unless amended by the Board of Supervisors; and

3. Effective upon adoption of this Charter, references to "wife," "surviving spouse," "widow" or "widower" shall be construed to include "spouse," or "surviving spouse."



The following sections from the Charter of 1932, as amended, shall be included in Appendix A with full force and effect, and each shall be designated with a prefix "A":

7.204	Contractors' Working Conditions
8.329	Certification of Eligibles
8.341	Removal or Discharge of Permanent, Non-Probationary Employees
8.342—8.344	Disciplinary Suspensions; Police and Fire Department Suspensions; Exoneration of Charges
8.345—8.346	Disciplinary Action-Strikes
8.364	Catastrophic Sick Leave
8.400—8.406	Salaries and Wages for Teachers, Muni, Police, Fire and Miscellaneous Employees
8.409—8.409-6	Collective Bargaining
8.410—8.411	Expenses
8.420—8.429	Health Service System Benefits
8.430 [1st ¶]	"Medical Care" Defined
8.431—8.432	Health Service System Benefits
8.440—8.441	Vacations
8.450—8.452	Hours and Tours of Duty
8.500—8.517	Retirement System
8.518—8.588-15	Retirement System
8.590-1—8.590-7	Collective Bargaining for Fire, Police and Airport Police

The provisions of Appendix A may be amended only pursuant to the provisions of state law governing charter amendments.

#### **SEC. 16.117. APPENDIX B—PORT AGREEMENTS.**

The following sections from the Charter of 1932, as amended, shall be included in Appendix B with full force and effect, and each shall be designated with a prefix "B":

3.581—3.585	Port Transfer Agreement
6.406	Harbor Revenues and Expenditures

7.305	Revenue Bonds of the Port Commission
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The provisions of Appendix B may be amended only pursuant to the provisions of state law governing charter amendments.

#### **SEC. 16.118. APPENDIX C—ETHICS PROVISIONS.**

The following sections of the Charter of 1932, as amended, shall be included in Appendix C with full force and effect, and each shall be designated with a prefix "C":

3.699-10—3.699-16	Ethics Commission Procedures
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The provisions of Appendix C may be amended only pursuant to the provisions of state law governing charter amendments. (Amended November 2003)

#### **SEC. 16.119. APPENDIX D—BUILDING INSPECTION PROVISIONS.**

The following sections from the Charter of 1932, as amended, shall be included in Appendix D with full force and effect, and each shall be designated with a prefix "D":

3.750—3.750-8	Department of Building Inspection.
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The provisions of Appendix D may be amended only pursuant to the provisions of state law governing charter amendments.

#### **SEC. 16.120. CUSTOMER SERVICE PLAN.**

Each department of the City and County shall adopt an annual Customer Service Plan, in a format to be determined by the Board of Supervisors by ordinance. The Board may excuse a department from particular requirements of the ordinance where compliance would be inappropriate or impractical. Each department shall file its Customer Service Plan with the Board of Supervisors no later than February 1st of each year, along with a report on how the department met the previous year's Plan, if any. (Added November 1998)



**SEC. 16.122. RIGHT TO VOTE ON ANY PROJECT THAT WOULD PLACE 100 ACRES OR MORE OF FILL IN SAN FRANCISCO BAY.**

(a) The qualified electors of the City and County shall have the right to vote on any Project of the City and County that would place 100 acres or more of fill in San Francisco Bay.

(b) Notwithstanding any contrary provisions of the Charter, the approval of any Project that would place 100 acres or more of fill in San Francisco Bay shall be conditioned upon the affirmative vote of a majority vote of the electorate.

(c) Within three (3) business days of such conditional approval by any department, board, commission, or other unit of government of the City and County, including any board, commission or other unit of government of the City and County of San Francisco established by state or federal law that is subject to the provisions of the San Francisco Charter, of any Project that would place 100 acres or more of fill in San Francisco Bay, the approving entity shall provide written notice thereof to the Director of Elections who shall place the measure required by this Section on the ballot at the first general municipal or statewide election which occurs at least one hundred and twenty (120) days after said notice is received by the Director.

(d) Ballot measures generated and placed on the ballot pursuant to this Section are not exempt from the California Environmental Quality Act nor any other federal, state or local environmental laws and regulations to which the Project may be subject. Before any action is taken by the City and County to approve a Project that is required by this Section to be submitted to the electorate, the Project must comply with the California Environmental Quality Act. If compliance requires the preparation, consideration and certification of an Environmental Impact Report, that process shall be finalized prior to project approval and the information contained in the final certified Environmental Impact Report shall be made publicly available to the electorate for its consideration prior to the election.

(e) The general statement of the ballot measure to be voted on, pursuant to this Section, shall read as follows:

Shall the voters approve (insert name of project) that would fill in (insert number) acres of San Francisco Bay? Yes or No

The name of the Project to be inserted into the general statement shall be determined by the City Attorney pursuant to Section 510 of the San Francisco Elections Code, or any subsequent amended or renumbered version of Section 510.

(f) **Definitions.** Words and phrases used in this Section shall have the meanings specified in the San Francisco Charter, except that the following words and phrases as used in this Section shall have the following meanings:

“Project” or “Project of the City and County” shall mean any activity proposed, sponsored, initiated, or funded by any department, board, commission, or other unit of government of the City and County of San Francisco including any board, commission or other unit of government of the City and County of San Francisco established by state or federal law that is subject to provisions of the San Francisco Charter.

“Place fill” or “fill in” shall mean to introduce, or cause to be introduced, earth or any other substance or material, including pilings or structures placed on pilings, and structures floating at some or all times and moored for extended periods.

(g) If any part or provision of this Section, or the application thereof to any person or circumstance is held invalid, the remainder of this Section, including the application of such part or provision to other persons or circumstances, shall not be affected thereby and shall continue in full force and effect. To this end, provisions of this Section are severable. (Added November 2001)

**SEC. 16.123. CIVILIAN POSITIONS WITHIN THE POLICE DEPARTMENT.**

(a) The Controller shall review sworn and civilian staffing needs in the San Francisco Police Department. As part of that review, the Controller shall review police staffing levels and patterns in comparable jurisdictions, and best practices regarding police staffing.

The Controller and the Chief of Police shall also audit all positions in the Police Department and identify those positions that must be filled by sworn

officers and those that could be filled by civilian personnel or that, under best practices in other jurisdictions, typically are filled by civilian personnel.

In conducting these studies, the Controller and the Chief of Police shall consult with the Board of Supervisors' Budget Analyst, the Director of the Department of Human Resources, and a representative of the bargaining unit representing sworn members of the Police Department.

Upon the completion of these studies, the Controller and the Chief of Police shall forward to the Mayor and the Board of Supervisors a list of positions in the Police Department currently filled by sworn officers that could be filled by civilian personnel.

Upon submission of the list of positions to the Mayor and the Board of Supervisors, the provisions of subsection (a) shall expire and the City Attorney shall cause them to be deleted from future publications of the Charter, and shall cause the remaining provisions to be relettered accordingly.

(b) Positions may only be converted from sworn to civilian as they become vacant. No sworn officer shall be laid off in order to convert a position to civilian personnel.

If the Mayor and the Board of Supervisors convert positions from sworn officers to civilian personnel through the budget process, the minimum staffing level set in Section 4.127 shall be reduced by the same number of positions if the Controller and the Chief of Police jointly certify that the reduction will not decrease the number of police officers dedicated to neighborhood community policing, patrol and investigations and will not substantially interfere with the delivery of police services or the ability of the Police Department to protect the public in the event of an emergency. (Added March 2004)

#### **SEC. 16.123-1. PREAMBLE.**

(a) The people of the City and County of San Francisco find and declare that:

1. Quality public education is highly correlated with higher earnings potential, reduced crime, lower rates of teen pregnancy and substance abuse, and greater self-esteem;

2. Urban public schools have the greatest need for comprehensive educational programs—including preschool programs, arts and music programs, sports

activities, and after school programs—but often have the fewest resources to provide them;

3. While California once led the nation in public school spending and performance, investments have greatly declined. Despite its high cost of living, San Francisco per pupil spending ranks 34th among 43 comparable central city U.S. public school districts of similar size. As of 2001, adjusted for cost-of-living, teacher salaries for the San Francisco Unified School District (SFUSD) ranked 99th of 100 metropolitan areas;

4. SFUSD enrollment has dropped in recent years as families have left San Francisco in search of affordable neighborhoods with high-quality public schools;

5. The choices businesses make about where to locate include the quality of public services the City provides, including public safety, transportation and education;

6. Since 2000, the SFUSD has made strong improvements in achievement measures and financial management; and

7. As the economy begins to recover, now is the time to invest in our children's future, before further declines begin to erode the progress the SFUSD has made.

(b) This measure may be referred to as "The Arts, Music, Sports, and Pre-School for Every Child Amendment of 2003." (Added March 2004)

#### **SEC. 16.123-2. PUBLIC EDUCATION ENRICHMENT FUND.**

(a) **Creating the Fund.** There shall be a Public Education Enrichment Fund. The City shall each year appropriate monies to the Public Education Enrichment Fund according to subsections (b), (c), and (d), below. In determining whether the City has met its annual obligation to the Fund, the Mayor and the Board of Supervisors may consider both direct financial support and the cash value of any in-kind support services, as described in Section 16.123-5, provided by the City to the San Francisco Unified School District and the Children and Families First Commission (hereinafter the "First Five Commission") or any successor agency, provided that at least two-thirds of the City's contribution to the Fund each year shall be comprised of direct financial

support necessary to meet the requirements of Sections 16.123-3 and 16.123-4 of this measure.

(b) **Baseline Appropriations.** The Fund shall be used exclusively to increase the aggregate City appropriations to and expenditures for the San Francisco Unified School District. To this end, the City shall not reduce the amount of such City appropriations (not including appropriations from the Fund and exclusive of expenditures mandated by state or federal law) in any of the eleven years during which funds are required to be set aside under this Section below the amount so appropriated for the fiscal year 2002-2003 ("the base year"). These baseline appropriations shall be separate from the City's annual contributions to the Public Education Enrichment Fund under subsection (c), and shall be appropriated by the City to the School District each year during the term of this measure for the same purposes and in the same relative proportions among those purposes as in the base year, as certified by the Controller.

The amount of the City's baseline appropriations to the School District shall be adjusted for each year after the base year by the Controller based on calculations consistent from year to year by the percentage increase or decrease in City and County discretionary General Fund revenues. In determining City and County discretionary General Fund revenues, the Controller shall only include revenues received by the City and County that are unrestricted and may be used at the option of the Mayor and the Board of Supervisors for any lawful City purpose. Errors in the Controller's estimate of discretionary revenues for a fiscal year shall be corrected by an adjustment in the next year's estimate. Using audited financial results for the prior fiscal year, the Controller shall calculate and publish the actual amount of City appropriations that would have been required under this baseline for the School District.

(c) **Annual Contributions to the Fund—FY 2005-2006 through FY 2009-2010.** In addition to the annual baseline appropriation provided above, the City shall, for years two through six of this measure, contribute the following amounts to the Public Education Enrichment Fund:

Fiscal Year 2005-06	\$ 10 million
Fiscal Year 2006-07	\$ 20 million
Fiscal Year 2007-08	\$ 30 million
Fiscal Year 2008-09	\$ 45 million
Fiscal Year 2009-10	\$ 60 million

(d) **Annual Contributions to the Fund—FY 2010-11 through FY 2014-15.** For Fiscal Years 2010-11 through FY 2014-15, the City's annual contribution to the Public Education Enrichment Fund shall equal its total contribution for the prior year, beginning with Fiscal Year 2009-2010, adjusted for the estimated increase or decrease in discretionary General Fund revenues for the year.

(e) **Audit Requirements.** All disbursements from the Fund and from the baseline appropriations shall be subject to periodic audit by the Controller. The San Francisco Unified School District and the First Five Commission shall agree to such audits as a condition of receiving disbursements from the Fund. (Added March 2004)

**SEC. 16.123-3. ARTS, MUSIC, SPORTS, AND LIBRARY PROGRAMS.**

Each year during the term of this measure, the City shall appropriate one-third of the money in the Public Education Enrichment Fund to the San Francisco Unified School District for arts, music, sports, and library programs in the schools. (Added March 2004)

**SEC. 16.123-4. UNIVERSAL ACCESS TO PRESCHOOL.**

(a) **Universal Access to Preschool.** It shall be the policy of the City and County of San Francisco to provide all four-year-old children who are City residents the opportunity to attend preschool, and it shall be the goal of the people in adopting this measure to do so no later than September 1, 2009.

(b) **Planning Process.** No later than September 1, 2004, the First Five Commission, in consultation with the San Francisco Childcare Planning and Advisory Council, the San Francisco Unified School District, the San Francisco Department of Children, Youth and Their Families, and community stakeholders, shall submit to the Board of Supervisors



a proposal for a universal preschool program for San Francisco. The Board of Supervisors shall approve the plan by resolution; if the Board does not approve the plan, it may refer the plan back to the First Five Commission for revision.

In preparing the plan, the First Five Commission shall develop universal preschool funding guidelines consistent with the Childcare Planning and Advisory Council's San Francisco Childcare Needs Assessment, including guidelines designed to meet neighborhood-specific needs, such as subsidies, new facility development, and provider support for both family childcare homes and childcare centers. Such funding guidelines also shall address the unmet need for universal preschool and childcare slots in specific City neighborhoods.

(c) **Annual Disbursements.** Each year during the term of this measure, the City shall appropriate one-third of the money in the Public Education Enrichment Fund to the First Five Commission for universal preschool programs administered by the Commission. (Added March 2004)

#### **SEC. 16.123-5. OTHER CITY SUPPORT FOR THE SAN FRANCISCO UNIFIED SCHOOL DISTRICT.**

(a) **In-Kind Support.** Not later than one year after the effective date of this measure, the City and the School District shall identify areas of potential in-kind support that the City could provide to the School District free of charge or at substantially reduced rates. In-kind support, for these purposes, may include, but is not limited to:

- Learning support services, including health, counseling, social work, and nutrition services;

- Financial support services;

- Telecommunication and information services;

- Construction management services;

- Utility services;

- Transportation services;

- Legal services; and

- Public safety services.

(b) **Planning Process.** No later than six months after the effective date of this measure, the School District shall submit to the Board of Supervisors proposals for in-kind services that could be provided by the City to the District to further the educational

goals and operations of the District. The Board shall distribute those proposals to all City departments having expertise in providing or capability to provide such in-kind services, and no later than nine months after the effective date of this measure, the departments will respond to the Board with proposals to provide such in-kind services to the District. The School District may use any direct financial support provided under this Section to hire consultants to help identify possible in-kind services. The Board of Supervisors may, by ordinance, provide for continuation of this planning process during the subsequent term of the measure.

(c) **Annual Disbursements.** Each year during the term of this measure, the City shall provide direct financial assistance from the Public Education Enrichment Fund to the San Francisco Unified School District, in an amount equal to one-third of the money in the Fund, or in-kind support services of equal value.

(d) **Permissible Uses.** The San Francisco Unified School District may expend funds provided as direct financial support under this Section for any educational or support purpose provided under law, including, but not limited to, gifted and talented programs, magnet programs, literacy programs, dual-language immersion programs, special education, employee compensation, career and college centers at high schools, teacher mentoring or master teacher programs, or other instructional purposes. The City recognizes that in providing such programs and services, a well-run school district requires both certificated and classified staff, and urges the San Francisco Unified School District to hire both certificated and classified staff to carry out the purposes of this measure.

(e) Within one year of the effective date of this measure, the School District, with the assistance of the City's Department of Public Health, Department of Human Services, and Department of Children, Youth, and Their Families, shall conduct an assessment of health, counseling, social work, and nutritional needs of pupils in the District, including problems related to asthma and other chronic diseases. The City may appropriate a specific portion of the disbursement under this Section through its annual appropriation process for these purposes, pursuant to recommendations from the School District. (Added March 2004)



**SEC. 16.123-6. EXPENDITURE PLANS.**

(a) No later than February 1 of each year during the term of this measure, the San Francisco Unified School District and the First Five Commission shall each submit an expenditure plan for funding to be received from the Public Education Enrichment Fund for the upcoming fiscal year. The proposed expenditure plans must include prior year total budgeted and expended appropriations and Fund budgeted and expended appropriations by category, as well as average daily attendance information for the prior year and anticipated average daily attendance information for the plan year, to facilitate multi-year comparison.

(b) The Controller shall review the plans and transmit them, with his or her comments, to the Mayor and the Board of Supervisors for their review and comment.

(c) The plans shall include a budget for the expenditures, performance goals, target populations, hiring and recruitment plans for personnel, plans for matching or other additional funding, operating reserves, and any other matters that the District and Commission deem appropriate or the Mayor or the Board requests.

(d) The Mayor and the Board of Supervisors may request further explanation of items included in the plans, and the District and the Commission shall respond in a timely manner to such inquiries. The Board may place appropriations provided for under this measure on reserve until it has received adequate responses to its inquiries. (Added March 2004)

**SEC. 16.123-7. STRUCTURAL SAVINGS TO THE CITY'S BUDGET.**

(a) **Controller's and Budget Analyst's Recommendations.** Not later than October 1 of each fiscal year from Fiscal Year 2005-06 through 2009-10, the Controller and the Board of Supervisors' Budget Analyst shall prepare and submit recommended cuts or other structural changes to reduce, on an ongoing basis, spending on City departmental operations, or identify new revenues, in an amount sufficient to meet each year's required funding for the Public Education Enrichment Fund.

(b) **Board of Supervisors' Proposals.** Not later than December 15 of each fiscal year from Fiscal Year 2005-06 through Fiscal Year 2009-10, the Board of Supervisors shall hold hearings on the recommendations made by the Controller and the Budget Analyst and shall forward its proposals to the Mayor.

(c) **Budget Requirements.** In his/her annual budget submission to the Board of Supervisors for each fiscal year from Fiscal Year 2005-06 through Fiscal Year 2009-10, the Mayor shall incorporate the Board of Supervisors' proposals, or identify alternative revenue or expenditure savings sufficient to appropriate funds to the Public Education Enrichment Fund according to the schedule set forth in Section 16.123-2 of this measure. (Added March 2004)

**SEC. 16.123-8. ADJUSTMENTS.**

(a) In any year of this measure, if the joint budget report as prepared by the Controller, the Mayor's Budget Director and the Board of Supervisors' Budget Analyst projects a budgetary shortfall of \$100 million dollars or more, the Mayor and the Board of Supervisors may reduce the City's contribution to the Public Education Enrichment Fund under Section 16.123-2, and its disbursements under Sections 16.123-3, 16.123-4, or 16.123-5, by up to 25 percent; provided, however, that the City must pay back the amount deferred within the period from June 30, 2015, the last day of the term of this measure, and June 30, 2018, a date three years later, unless the voters extend this measure beyond July 1, 2015 or authorize a substantially similar measure at that time.

(b) **Audit Recommendations.** The Mayor and the Board of Supervisors may suspend the City's disbursements from the baseline appropriations or the Public Education Enrichment Fund under Sections 16.123-3, 16.123-4, or 16.123-5 in whole or in part for any year where the Controller certifies that the San Francisco Unified School District or the First Five Commission has failed to adopt audit recommendations made by the Controller.

As part of the audit function, the Controller shall review performance and cost benchmarks developed by the School District and the First Five Commission in consultation with the Controller for programs funded under this measure. The Commission's

performance and cost benchmarks shall be based on the same performance and cost benchmarks as are required for other City departments, and on comparisons with other cities, counties, and public agencies performing similar functions. The School District's performance and cost benchmarks shall be based on similar standards.

In particular, the Controller shall assess:

(1) Measures of workload addressing the level of service being provided or providing an assessment of need for a service;

(2) Measures of efficiency including cost per unit of service provided, cost per unit of output, or the units of service provided per full time equivalent position; and

(3) Measures of effectiveness including the quality of service provided, citizen perceptions of quality, and the extent a service meets the needs for which it was created.

The Controller's audits may address the extent to which the School District and the First Five Commission have met their respective performance and cost benchmarks.

(c) **Reserve Policies.** The Mayor and the Board of Supervisors may suspend the City's disbursements from the baseline appropriations or the Public Education Enrichment Fund under Sections 16.123-2, 16.123-4, or 16.123-5 in whole or in part for any year where the Controller certifies that the San Francisco Unified School District or the First Five Commission has failed to adopt reserve policies recommended by the Controller.

(d) **Transfer and Use of Suspended Distributions.** If the Mayor and the Board of Supervisors suspend City distributions from the baseline appropriations or the Public Education Enrichment Fund under subsections (b) or (c), the City shall transfer the amount that would otherwise be distributed from the baseline appropriations or the Public Education Enrichment Fund for that year to the Children's Fund established in Charter Section 16.108, for the provision of substantially equivalent services and programs.

(e) **New Local Revenues.** The Board of Supervisors may, by ordinance, proportionally reduce the contribution to the Public Education Enrichment Fund and the disbursements to the San Francisco

Unified School District and the First Five Commission required by this measure if the voters of San Francisco adopt new, dedicated revenue sources for the School District or the Commission, and the offsetting reduction in disbursements is specifically authorized by the local revenue measure.

(f) **New State Revenues.** The Board of Supervisors may, by ordinance, proportionally reduce the contribution to the Public Education Enrichment Fund and the disbursements to the San Francisco Unified School District required by this measure if the percentage increase in per-pupil Revenue Limit funding provided by the State of California to the San Francisco Unified School District in any fiscal year exceeds the percentage increase in the City's cost of living during the previous fiscal year.

The Board of Supervisors may, by ordinance, proportionally reduce the contribution to the Public Education Enrichment Fund and the disbursements to the First Five Commission if the State of California provides funding to the City for universal preschool, provided that such disbursements are not required to match state and/or other funding.

(g) Eighteen months prior to the expiration of this measure, the Controller shall conduct a complete analysis of the outcomes of the programs funded through the Public Education Enrichment Fund. The Controller's study shall also address changes in the levels of state and federal funding for local schools, per-pupil spending in the San Francisco Unified School District compared to urban school districts of similar size. The Controller shall present the results of this analysis to the Mayor and the Board of Supervisors no later than nine months prior to the expiration of the measure. (Added March 2004)

#### **SEC. 16.123-9. STATE REDISTRIBUTION OF LOCAL EDUCATION REVENUES.**

(a) The people of the City and County of San Francisco find and declare that major urban school districts, such as San Francisco, serve an ethnically and economically diverse student population that requires more resources than currently provided under state guidelines. In adopting this measure, the people of San Francisco choose to provide additional City resources to complement, and not supplant, state funding for the San Francisco Unified School District.

(b) Consistent with subsection (a), the people of the City and County of San Francisco specifically find that their contributions to and disbursements from the baseline appropriations and the Public Education Enrichment Fund are discretionary expenditures by the City for the direct benefit of the children of San Francisco, their families, and the community at large. In the event that the State attempts, directly or indirectly, to redistribute these expenditures to other jurisdictions or to offset or reduce State funding to the School District because of these expenditures, the City shall transfer said monies that would otherwise be distributed to the School District each year to the City's Children's Fund established in Charter Section 16.108, for the provision of substantially equivalent services and programs. (Added March 2004)

#### **SEC. 16.123-10. SUNSET.**

The provisions of this measure shall expire in eleven years, at the end of Fiscal Year 2014-15, unless extended by the voters. (Added March 2004)

#### **SEC. 16.124. BOARD OF SUPERVISORS AUTHORIZED TO RESPOND TO CERTAIN ORDERS OR REQUESTS FOR THE PRODUCTION OF CITY RECORDS.**

(a) The Board of Supervisors may, by resolution, designate as a "watch law" any state or federal law or regulation that calls for, authorizes, or requires the production by any City officer, employee, agency, department or office of information, records, or other tangible things held by the City, the disclosure of which could violate the rights of any individuals under the State or Federal Constitutions.

(b) The Board of Supervisors may provide, by ordinance, that it shall respond on behalf of the City and County of San Francisco to all orders or requests for the production of information, records or other tangible things served on the City and County under any law designated as a watch law.

(c) The Board may adopt procedures for expedited consideration of orders or requests for production where necessary to comply with legal deadlines for responding. Prior to acting by resolution of the full Board of Supervisors, the Board may refer the order or request to a committee of its members for a recommendation to the full Board, after consultation with the City Attorney, on an appropriate course of action. To the extent federal or state law would prohibit public disclosure of information that the Board of Supervisors needs to discuss in order to discharge its powers under this Section, the Board may meet in closed session for the limited purpose of discussing that information. (Added March 2004)

#### **SEC. 16.125. DOMESTIC PARTNERSHIP.**

The Board of Supervisors may, by a vote of three-fourths of its members, amend or repeal the voter approved Domestic Partnership Ordinance, as codified in Chapter 62 of the San Francisco Administrative Code, as it deems necessary (1) to eliminate any residency requirement for establishing a Domestic Partnership by filing with the County Clerk, (2) to recognize domestic partnerships formed in other jurisdictions to the same extent as marriages formed in other jurisdictions, and (3) to afford domestic partners, to the fullest extent legally possible, the same rights, benefits, responsibilities, obligations and duties as spouses. (Added March 2004)

*[The next section begins on page 85.]*

*[The next page is number 85.]*



## ARTICLE XVII: DEFINITIONS

For all purposes of this Charter, the following terms shall have the meanings specified below:

“Business day” shall mean any day other than a Saturday, Sunday or holiday on which governmental agencies are authorized by law to close.

“Confirm” or “confirmation” shall mean the approval by a majority of the members of the Board of Supervisors.

“Discrimination” shall mean violations of civil rights on account of race, color, religion, creed, sex, national origin, ethnicity, age, disability or medical condition, political affiliation, sexual orientation, ancestry, marital or domestic partners status, gender identity, parental status, other non-merit factors, or any category provided for by ordinance.

“Domestic partners” shall mean persons who register their partnerships pursuant to the voter-approved Domestic Partnership Ordinance.

“Elector” shall mean a person registered to vote in the City and County.

“For cause” shall mean the issuance of a written public statement by the Mayor describing those actions taken by an individual as a member of a board or commission which are the reasons for removal, provided such reasons constitute official misconduct in office.

“General municipal election” shall mean the election to be held in the City and County on the Tuesday immediately following the first Monday in November in odd-numbered years.

“Initiative” shall mean (1) a proposal by the voters with respect to any ordinance, act or other measure which is within the powers conferred upon the Board of Supervisors to enact, any legislative act which is within the power conferred upon any other official, board, commission or other unit of government to adopt, or any declaration of policy; or (2) any measure submitted to the voters by the Mayor or by the Board of Supervisors, or four or more members of the Board.

“Notice” shall mean publication in an official newspaper (as defined by ordinance), and a contemporaneous filing with the Clerk of the Board of Supervisors or other appropriate office.

“One-third,” “a majority” or “two-thirds” of the Board of Supervisors or any other board or commission of the City and County shall mean one-third, a majority or two-thirds of all members of such board or commission.

“Published” shall mean published in an official newspaper of the City and County.

“Referendum” shall mean the power of the voters to nullify ordinances involving legislative matters except that the referendum power shall not extend to any portion of the annual budget or appropriations, annual salary ordinances, ordinances authorizing the City Attorney to compromise litigation, ordinances levying taxes, ordinances relative to purely administrative matters, ordinances necessary to enable the Mayor to carry out the Mayor's emergency powers, or ordinances adopted pursuant to Section 9.106 of this Charter.

“Special municipal election” shall mean, in addition to special elections otherwise required by law, the election called by (1) the Director of Elections with respect to an initiative, referendum or recall, and (2) the Board of Supervisors with respect to bond issues, election of an official not required to be elected at the general municipal election, or an initiative or referendum.

“Statewide election” shall mean an election held throughout the state.

“Voter” shall mean an elector who is registered in accordance with the provisions of state law. (Amended November 2003)



## ARTICLE XVIII: TRANSITION PROVISIONS

- Sec. 18.100. Effective Date of this Article XVIII.
- Sec. 18.101. Operative Date of this Charter; Effect of Enactment on Existing Law.
- Sec. 18.102. Obligations of Contract Not Impaired.
- Sec. 18.103. Transfer of 1932 Charter Sections to Ordinance and Initiative Ordinances.
- Sec. 18.104. Transfer of Functions, Powers and Duties.
- Sec. 18.105. Changes in Offices and Positions.
- Sec. 18.106. Official Fidelity Bonds.
- Sec. 18.107. Rules, Regulations and Administrative Code.
- Sec. 18.108. Status of Incumbent Officer and Employees.
- Sec. 18.109. Exempt Positions.
- Sec. 18.110. Provisional Appointments.
- Sec. 18.111. Asian Art Museum Status.
- Sec. 18.112. Preparation and Indexing of this Charter.
- Sec. 18.113. Mission-Driven Budget Phase-In.
- Sec. 18.114. Commission Terms.
- Sec. 18.115. Deletion of Ordinances Regulating Conflicts of Interest and Transfer of Charter Sections Regulating Conflicts of Interest into the Campaign and Governmental Conduct Code.

### SEC. 18.100. EFFECTIVE DATE OF THIS ARTICLE XVIII.

This Article XVIII shall take effect upon the filing of this Charter with the Secretary of State of the State of California. This Article, and each individual section, shall expire and go out of existence when the last act, required to be done in this Article, or individual section, has been completed; and, thereafter, the Clerk of the Board of Supervisors shall secure its removal from the next printing of this Charter.

### SEC. 18.101. OPERATIVE DATE OF THIS CHARTER; EFFECT OF ENACTMENT ON EXISTING LAW.

This Charter shall be operative July 1, 1996, and on that date shall supersede the Charter of 1932. Any authority vested in the Mayor to remove commissioners and department heads not granted in the Charter of 1932 shall be effective July 1, 1997. All references in this Article to the "Charter of 1932" shall be to the Charter of 1932, as recodified in 1971, and as amended as of December 31, 1995.

To the extent the provisions of this Charter are the same in terms or in effect as provisions of the Charter of 1932, they shall be construed and applied as a continuation of those provisions.

All provisions of local law relating to or affecting the City and County in force when this Charter becomes operative are hereby repealed and superseded only to the extent they are inconsistent with the provisions of this Charter.

Any amendments to the Charter of 1932 adopted at the November 7 1995, election shall be incorporated into this Charter and shall supersede any conflicting provisions, even if the amendments receive fewer votes than this Charter. The Clerk of the Board of Supervisors, in consultation with the City Attorney, shall conform the format and terminology of the amendments to this Charter.

In adopting this revised Charter, the voters do not intend to amend or otherwise affect the provisions of any initiative ordinance in effect on the date this revision is adopted, including the Initiative Refuse Collection and Disposal Ordinance, adopted November 8, 1932, as amended, except that the City Administrator and the General Manager of Public Utilities shall succeed to the functions of the Chief Administrative Officer and the Manager of Utilities, respectively, as specified in that Initiative Ordinance.

The Retirement Board shall continue to exercise powers of management and control of workers' compensation programs until those functions are transferred pursuant to previously adopted ordinances to the Department of Human Resources.

# **SEC. 18.102. OBLIGATIONS OF CONTRACT NOT IMPAIRED.**

All rights, claims, actions, orders, obligations, proceedings, bond authorizations and contracts existing on the operative date of this Charter shall not be affected by the adoption of this Charter, except that where functions, powers and duties have been reassigned, the office, agency or department to which the assignment is made shall have charge of the matter.

# **SEC 18.103. TRANSFER OF 1932 CHARTER SECTIONS TO ORDINANCE AND INITIATIVE ORDINANCES.**

The following sections of the Charter of 1932 shall be deemed enacted into ordinance and may be amended by the Board of Supervisors on the operative date of this Charter; provided, however, that in the instance of conflict or inconsistency between the ordinance or a portion of the ordinance and this Charter, this Charter shall prevail:

- 1.103
- 2.101
- 2.203
- 2.203-3
- 3.100, paragraph 8, sentences 5—6
- 3.201
- 3.301—3.303, inclusive
- 3.402
- 3.501
- 3.502
- 3.523
- 3.529
- 3.531
- 3.533—3.535, inclusive
- 3.537—3.539, inclusive
- 3.540—3.547, inclusive
- 3.551—3.552

- 3.560
- 3.570—3.572, inclusive
- 3.590—3.599, inclusive
- 3.601
- 3.621—3.624, inclusive
- 3.631, 3.632, and 3.634
- 3.640—3.641, inclusive
- 3.642, second sentence only
- 3.680, third paragraph only
- 3.691—3.694, inclusive
- 3.698.1—3.698.3, inclusive
- 3.699-2
- 3.707
- 6.207
- 6.300—6.304, inclusive
- 6.306—6.310, inclusive
- 6.312—6.313
- 6.400—6.403, inclusive
- 6.407—6.408, inclusive
- 6.410
- 7.100—7.104, inclusive
- 7.200—7.203, inclusive
- 7.205—7.206, inclusive
- 7.304
- 7.306
- 7.308
- 7.400—7.405, inclusive
- 7.600—7.606, inclusive
- 7.701—7.703, inclusive
- 8.104
- 8.106
- 8.311
- 8.410—8.411
- 9.104, fifth paragraph only
- 9.113—9.115, inclusive

Ordinances and policy declarations adopted by the voters shall not be published as part of this Charter, in an appendix or otherwise, but shall be published as provided in this Charter for other ordinances, and shall be included in any codification of ordinances as provided in this Charter and be designated as initiative ordinances.



**SEC. 18.104. TRANSFER OF FUNCTIONS, POWERS AND DUTIES.**

On the operative date of this Charter, all offices, agencies and departments of the City and County then in existence under the Charter of 1932 shall continue to perform their functions, exercise their authority and fulfill their responsibilities, as they existed immediately before this Charter's becoming operative subject to the provisions of this Article. Not later than 90 days after the operative date of this Charter, each such office, agency and department for which this Charter does not provide shall cease to exist, and its functions, powers and duties shall be transferred to the appropriate governmental unit created by this Charter or under the authority of this Charter. The Board of Supervisors and the Mayor shall take all action necessary to provide for the orderly transfer of functions, authority and responsibility on or before the date of such transfer.

**SEC. 18.105. CHANGES IN OFFICES AND POSITIONS.**

The Chief Administrative Officer and the Controller serving on November 7, 1995, shall be appointed to the offices, respectively, of City Administrator and Controller. These offices shall have the functions, powers and duties assigned by this Charter, and their initial terms of office in effect immediately prior to the date of this Charter shall remain unchanged, except that the term of office of the City Administrator shall be five years from the incumbent's appointment as Chief Administrative Officer.

The Clerk of the Board of Supervisors serving on November 7, 1995, shall be appointed as Clerk of the Board of Supervisors. This position shall remain a classified position as long as the person holding the position on November 7, 1995, remains in this position.

The Secretary-General Manager of the Retirement System serving on November 7, 1995, shall succeed to the position of executive director. This position shall remain a classified position as long as the person holding the position on November 7, 1995, remains in this position.

The General Manager of the Department of Social Services shall succeed to the position of executive director of the Department of Human Services.

The offices of Assessor and Recorder shall be consolidated no earlier than July 1, 1997. Prior to that date, the functions, powers and duties of the Recorder shall continue to be performed by the Recorder-County Clerk, as that office is established in the Charter of 1932. After July 1, 1997, the functions, powers and duties of the County Clerk shall be transferred to the City Administrator and the functions, powers and duties of the Recorder shall be transferred to the Assessor-Recorder. The person holding office as Recorder-County Clerk at the time of the transfer shall become a deputy department head to the Assessor-Recorder, and shall maintain his or her classified status.

The Social Services Commission shall succeed to the Human Services Commission.

On the operative date of this Charter, the City Administrator shall be responsible for the following functions until they are reassigned by the Mayor, with approval by the Board of Supervisors, or by operation of this Charter: Department of Public Works, Government Services, Purchasing, Real Estate, Electricity and Telecommunication, Public Guardian, Convention Facilities, Animal Control, County Clerk/Recorder, County Agriculture, Weights and Measures and Registrar of Voters/Department of Elections; Medical Examiner; and all projects previously assigned by ordinance to the Chief Administrative Office, including but not limited to: George R. Moscone Center Project, Clean Water program, Publicity and Advertising Fund, Risk Management, Beautification project, EIPSC, Waterfront project and Solid Waste Management.

**SEC. 18.106. OFFICIAL FIDELITY BONDS.**

The Board of Supervisors shall determine the initial fidelity bond requirements under this Charter within 90 days after the operative date of this Charter. Until the Board of Supervisors determines such requirements for officials of the City and County, the bonds existing on the operative date of this Charter shall be maintained.

**SEC. 18.107. RULES, REGULATIONS AND ADMINISTRATIVE CODE.**

Each officer, department, agency, board and commission responsible for rules and regulations of the City and County under this Charter shall, within 90 days of the operative date of this Charter, review all rules and regulations for which it is responsible and amend and adopt rules and regulations consistent with this Charter.

**SEC. 18.108. STATUS OF INCUMBENT OFFICERS AND EMPLOYEES.**

The changes in and transfers of functions, powers and duties which occur at the time this Charter becomes operative shall not affect or impair the rights or privileges of permanent civil service officers or employees of the City and County relating to appointment, rank, grade, compensation, tenure of office, promotion, discipline, removal, pensions and retirement, except as provided in this Charter.

Whenever a position previously within the classified municipal civil service is, pursuant to this Charter, designated exempt from the civil service provisions of this Charter, the permanent civil service incumbent in such position at the time this Charter becomes operative shall continue to have civil service status in that position under the civil service provisions of this Charter.

If by the terms of this Charter, or action taken by authority of this Charter:

1. All or substantially all of the duties of any position exempt from the civil service provisions of the Charter of 1932 are transferred to another office, agency or department, that position shall be transferred to that office, agency or department and the person holding the position on the operative date of this Charter shall be transferred with the position.

2. All or substantially all of the duties of any civil service position are transferred to another office, agency or department, that position shall be transferred to that office, agency or department and the permanent civil service appointee holding the position on the operative date of this Charter shall be transferred with the position.

**SEC. 18.109. EXEMPT POSITIONS.**

The Board of Supervisors and the Mayor, through the budget for the fiscal year ending June 30, 1996, shall designate the positions exempt from civil service, within the categories provided in Article X of this Charter.

**SEC. 18.110. PROVISIONAL APPOINTMENTS.**

Unless their appointments are renewed pursuant to the provisions of Section 10.105, the employment of all provisional employees, appointed under the Charter of 1932, whose appointment does not meet the provisions of this Charter, shall be terminated within three years of the operative date of this Charter in accordance with the rules and regulations governing layoffs. Such provisional employees may qualify for certification as eligibles under rules and regulations expressly authorized by civil service rules approved by the Board of Supervisors. Such rules may establish special credit for civil service examinations for years of service or, through other methods, recognize the service of such employees who have held such employment for more than six months at the operative date of this Charter.

**SEC. 18.111. ASIAN ART MUSEUM STATUS.**

During such time as the Asian Art Museum is located in a wing of the M. H. de Young Memorial Museum, the Commission shall control and manage the collections housed in that wing as provided for in the July 2, 1969 Management Agreement between the Committee of Asian Art and Culture and the Board of Trustees of the de Young Museum, a copy of which is on file with the Clerk of the Board of Supervisors.

**SEC. 18.112. PREPARATION AND INDEXING OF THIS CHARTER.**

The City Attorney shall correct typographical errors and prepare an index prior to the operative date and publication of this Charter.

#### **SEC. 18.113. MISSION-DRIVEN BUDGET PHASE-IN.**

The mission-driven budget process shall be phased in over a three-year period with the Mayor identifying for each of the three years approximately one-third of the City departments that shall thenceforth be required to comply with the requirements of Sections 9.114, 9.115 and 9.116.

#### **SEC. 18.114.COMMISSION TERMS.**

Whenever a new board or commission is created in this Charter, or additional members are added to an existing board or commission, the Mayor shall appoint the initial members to staggered terms.

#### **SEC. 18.115. DELETION OF ORDINANCES REGULATING CONFLICTS OF INTEREST AND TRANSFER OF CHARTER SECTIONS REGULATING CONFLICTS OF INTEREST INTO THE CAMPAIGN AND GOVERNMENTAL CONDUCT CODE.**

(a) On the effective date of this Charter Amendment, Section 1.50 of the Administrative Code and Section 1.200; Article III, Chapter 2 and Section 3.200; Article III, Chapter 3 and Section 3.300; Article III, Chapter 4 and Sections 3.400 and 3.405; Article III, Chapter 5 and Sections 3.500, 3.505, 3.510, 3.515, 3.520, 3.525, 3.530, 3.535, 3.540, 3.545; Article III, Chapter 6 and Section 3.600; and Article III, Chapter 7 and Sections 3.700, 3.705, 3.710, 3.715, 3.720, 3.725, 3.730, 3.735, and 3.740 of the Campaign and Governmental Conduct Code shall be deemed repealed, and the City Attorney is authorized and directed to take appropriate steps to remove them from future editions of published codes.

(b) On the effective date of this Charter Amendment, Charter Sections C9.101 – C9.127 shall be deemed enacted into ordinance, and the City Attorney is directed and authorized to codify Section C9.101 as Administrative Code Section 1.50; Section C9.102 as Campaign and Governmental Conduct Code Section 1.200; Section C9.103 as Campaign and

Governmental Conduct Code Section 3.1-102.5; Section C9.127 in a new Chapter 3 of the Campaign and Governmental Conduct Code titled "Ethics Commission" as Section 3.300; and the remaining sections in a new Chapter 2 of the Campaign and Governmental Conduct Code titled "Conflict of Interest and Other Prohibited Activities" as follows: Section C9.104 as Section 3.200; Section C9.105 as Section 3.202; Section C9.106 as Section 3.204; Section C9.107 as Section 3.206; Section C9.108 as Section 3.208; Section C9.109 as Section 3.210; Section C9.110 as Section 3.212; Section C9.111 as Section 3.214; Section C9.112 as Section 3.216; Section C9.113 as Section 3.218; Section C9.114 as Section 3.220; Section C9.115 as Section 3.222; Section C9.116 as Section 3.224; Section C9.117 as Section 3.226; Section C9.118 as Section 3.228; Section C9.119 as Section 3.230; Section C9.120 as Section 3.232; Section C9.121 as Section 3.234; Section C9.122 as Section 3.236; Section C9.123 as Section 3.238; Section C9.124 as Section 3.240; Section C9.125 as Section 3.242; and Section C9.126 as Section 3.244.

These sections may be amended by the Board of Supervisors if (a) the amendment serves the purposes of the Ordinance; (b) the Ethics Commission approves the proposed amendment by at least a four-fifths vote of all its members; (c) the proposed amendment is available for public review at least 30 days before the amendment is considered by the Board of Supervisors; and (d) the Board of Supervisors approves the proposed amendment by at least a two-thirds vote of all its members. (Added November 2003)





## **CHARTER APPENDICES**

- Appendix A. EMPLOYMENT PROVISIONS**
- Appendix B. PORT AGREEMENTS.**
- Appendix C. ETHICS PROVISIONS.**
- Appendix D. BUILDING INSPECTION PROVISIONS.**
- Appendix E. SUPERVISORIAL DISTRICT BOUNDARIES**
- Appendix F. AUTHORITY AND DUTIES OF CITY SERVICES AUDITOR**



## APPENDIX A: EMPLOYMENT PROVISIONS\*

\* Citations in these appendices to other Charter sections refer to provisions of the 1932 Charter, as amended. Not all of those provisions have been carried forward under the new Charter.

A7.204	Contractors' Working Conditions	A8.401-7	Extension
A8.329	Certification of Eligibles	A8.401-8	Costs
A8.341	Removal or Discharge of Permanent, Non-Probationary Employees	A8.401-9	School and Community College Districts
A8.342	Disciplinary Suspensions	A8.401-10	Non-Vested Benefit
A8.343	Fine, Suspension and Dismissal in Police and Fire Departments	A8.401-11	Discretionary Authority
A8.344	Temporary Suspension Pending Commission Hearing; Exoneration of Charges	A8.402	Compensation of Teachers, Part- Time Employees and Certain Other Groups
A8.345	Disciplinary Action against Striking Employees	A8.403	Compensation for Registered Nurse Classifications
A8.346	Disciplinary Action against Striking Employees other than Members of Police and Fire Department	A8.404	Salaries and Benefits of Carmen
A8.364	Authorization to Transfer Unused Sick Leave	A8.405	Salaries of Uniformed Forces in the Police and Fire Departments
A8.365	Compensation During Parental Leave	A8.406	Salary Deductions
A8.365-1	Definition	A8.409	Declaration of Policy
A8.365-2	Eligibility	A8.409-1	Employees Covered
A8.365-3	Duration	A8.409-2	Interim Provisions
A8.365-4	Supplemental Compensation	A8.409-3	Obligation to Bargain in Good Faith
A8.365-5	Reimbursement	A8.409-4	Impasse Resolution Procedures
A8.365-6	Non-Vested Benefit	A8.409-5	Retirement Benefits
A8.365-7	Rules for Administration, Interpretation and Regulation of Parental Leave	A8.409-6	Employee Relations Rules
A8.400	General Rules for Establishing and Paying Compensation	A8.410	Reimbursement of Expenses
A8.401	Early Retirement Benefits Targeted to Mitigate Layoffs	A8.411	Payment for Repair or Replacement of Equipment
A8.401-1	Purpose	A8.420	Establishment of and Membership in Health Service System
A8.401-2	Early Retirement Benefits	A8.421	Adoption of Plans for Residents
A8.401-3	Authority	A8.422	Adoption of Plans for Members
A8.401-4	Schedule	A8.423	Revision of Schedules and Compensation
A8.401-5	Eligibility	A8.424	Specificity Required
A8.401-6	Notification Procedure	A8.425	Persons Covered
		A8.426	Right of Selection
		A8.427	Effect of Other Charter Provisions
		A8.428	Health Service System Trust Fund
		A8.429	Contributions to Fund
		A8.430	"Medical Care" Defined
		A8.431	Limitation of Claims by Members

A8.432	Transition		Released by Withdrawal or
A8.440	Annual Vacations of Employees		Relinquishment by Retiring or
A8.441	Authorization to Transfer Vacation		Retired Teachers
	Credits	A8.514	Social Security Coverage
A8.450	Municipal Railway	A8.515	Compensation Insurance Payments
A8.451	Police Department	A8.516	Disability Benefits
A8.452	Fire Department	A8.517	Elimination of Mandatory
A8.500	Retirement System for Officers and		Retirement
	Employees	A8.518	Hearing Officer
A8.500-1	Reciprocal Pension Benefits with	A8.519	Retirement System Credit for
	the Retirement System and with		Representative Service
	Other Public Pension Plans	A8.520	Continuous Service
A8.500-2	Domestic Partner Qualified	A8.521	Credit for Certain Military Service
	Survivor Benefits	A8.522	Early Retirement Benefits
A8.502	Retirement of Elective Officers	A8.522-1	Early Retirement Benefits
A8.503	Retirement—Court Employees and	A8.522-2	Recalculation/Effective Date of
	Attaches		Retirement
A8.504	Retirement—Parking Authority	A8.522-3	Return to Service
	Employees	A8.522-5	Compliance with Tax Laws
A8.505	Retirement—Port Authority	A8.525	Contributions to Retirement Fund
	Employees	A8.526	Cost of Living Adjustment in
A8.506	Sheriff's Department		Allowances
A8.506-1	Teachers in the San Francisco	A8.526-1	Supplemental Cost of Living Benefit
	Unified School District and San	A8.527	Community Property Rights
	Francisco Community College	A8.530	Retirement—Miscellaneous Officers
	District		and Employees prior to July
A8.506-2	Miscellaneous Safety Employees		1, 1947
A8.506-3	Housing Authority Police	A8.531	Increasing Retirement Allowances
A8.506-4	Per Diem Nurses on January		of Miscellaneous Officers and
	1, 1988		Employees Retired prior to July
A8.506-5	District Attorneys, Public		1, 1947
	Defenders and Public Defender	A8.532	Increasing Retirement Allowances
	Investigators		of Miscellaneous Officers and
A8.507	Miscellaneous Officers and		Employees Retired prior to July
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hours per day conforms to the requirements of the Labor Code of the State of California and all applicable federal laws;

(b) that any person performing labor thereunder shall be paid not less than the highest general prevailing rate of wages in private employment for similar work; however, the Board of Supervisors may by resolution exempt from the prevailing wage requirement any contract where the work is to be

## A7.204 CONTRACTORS' WORKING CONDITIONS

Every contract for any public work or improvement to be performed at the expense of the city and county, or paid out of moneys deposited in the treasury, whether such work is to be done directly under contract awarded, or indirectly by or under subcontract, subpartnership, day labor, station work, piece work, or any other arrangement whatsoever, must provide:

(a) that in the performance of the contract and all work thereunder, eight hours shall be the maximum hours of labor on any calendar day, except that hours of labor in excess of eight hours per day may be permitted when conditions so warrant upon the approval of the department head responsible for the supervision of the contract, provided that compensation for all hours worked in excess of eight



performed by a non-profit organization that provides job training and work experience for disadvantaged individuals in need of such training and experience, and either (1) has a board of directors which is appointed by the Mayor, or (2) exists primarily to design and build urban gardens, yards and play areas;

(c) that any person performing labor in the execution of the contract shall be a citizen of the United States;

(d) that all laborers employed in the execution of any contract within the limits of the city and county shall have been residents of the city and county for a period of one year immediately preceding the date of their engagements to perform labor thereunder; provided, however, that the officer empowered to award any such contract may, upon application of the contractor, waive such residence qualifications and issue a permit specifying the extent and terms of such waiver whenever the fact be established that the required number of laborers and mechanics possessing qualifications required by the work to be done cannot be engaged to perform labor thereunder.

The term "public work" or "improvement," as used in this section shall, include the fabrication, manufacturing or assembling of materials in any shop, plant, manufacturing establishment or other place of employment, when the said materials are of unique or special design, or are made according to plans and specifications for the particular work or improvement and any arrangement made for the manufacturing, fabrication or assembling of such materials shall be deemed to be a contract or a subcontract subject to the provisions of this section.

The board of supervisors shall have full power and authority to enact all necessary ordinances to carry out the terms of this section and may by ordinance provide that any contract for any public work or improvement or for the purchase of materials which are to be manufactured, fabricated or assembled for any public work or improvement, a preference in price not to exceed 10 percent shall be allowed in favor of such materials as are to be manufactured, fabricated or assembled within the City and County of San Francisco as against similar materials which may be manufactured, fabricated or assembled outside thereof. When any such materials are to be fabricated, assembled or manufactured by any subcontractor or materialman for the purpose of supplying the same to

any contractor bidding on or performing any contract for any public work or improvement, said subcontractor or materialman manufacturing, fabricating, assembling or furnishing said materials manufactured, assembled or fabricated within the City and County of San Francisco shall be entitled to the same preferential as would any original contractor or materialman furnishing the same if the board of supervisors by ordinance so provide. When any ordinance shall so provide any officer, board or commission letting any contract may in determining the lowest responsible bidder for the doing or performing of any public work or improvement add to said bid or sub-bid an amount sufficient not exceeding 10 percent in order to give preference to materials manufactured, fabricated or assembled within the City and County of San Francisco.

#### **A8.329 CERTIFICATION OF ELIGIBLES**

Whenever a position controlled by the civil service provisions of this Charter is to be filled, the appointing officer shall make a requisition to the department of human resources for a person to fill it. Thereupon, the department shall certify to the appointing officer the names and addresses of all those persons meeting the certification rule established for that classification. The Civil Service Commission shall establish certification rules. Certification rules shall not be more restrictive than the certification of all candidates receiving the three highest scores on the list of eligibles for such positions. The appointing officer shall fill the position by the appointment of one of the persons certified. In making such certification, sex shall be disregarded except when a statute, rule of the commission or the appointing officer specifies sex; provided however, the appointing officer shall give due consideration to applicable civil service equal employment opportunity (EEO) goals so as to maximize diversity at all levels of city employment. The Mayor and the Board of Supervisors shall annually review each department's performance in meeting its civil service EEO obligations.

From the requisition of the appointing officer or otherwise, the department shall determine whether the position is, in character, temporary, seasonal or permanent, and shall notify the candidate in accordance therewith to the end that the candidate may have knowledge of the probable duration of

employment. The department shall provide for such waiver of temporary or seasonal employment as it may deem just to candidates.

Notwithstanding anything to the contrary in this or any other provision of the charter, an employee who has been certified from a regularly adopted eligible list to a non-permanent position in a civil service classification shall be entitled to appointment to a permanent position within that same classification before the department certifies to the appointing officer the names and addresses of persons standing higher on the list of eligibles who are not then current employees, subject to a demonstration of satisfactory job performance in the non-permanent position for a period and in the manner provided by rule of the commission. The provisions of this section as herein amended shall only be applicable to requisitions for permanent positions filled from and after January 1, 1980.

#### **A8.341 REMOVAL OR DISCHARGE OF PERMANENT, NON-PROBATIONARY EMPLOYEES**

A. Any person employed under the civil service provisions of this charter, exclusive of members of the uniformed ranks of the police and fire departments as provided under Section 8.343 hereof, in a position defined by the commission as "permanent" may be removed or discharged by the appointing officer for just cause, after being provided with written notice of the charges, copies of all documentation upon which the charges are based and after an opportunity to respond to the charges before the appointing officer or his or her designee. Pending investigation of conduct involving misappropriation of public funds or property, misuse or destruction of public property, drug addiction or habitual intemperance, mistreatment of persons, immorality, acts which would constitute a felony or misdemeanor involving moral turpitude, or acts which present an immediate danger to the public health and safety the appointing officer may place the accused person on unpaid administrative leave for no more than 30 days unless the investigation shall be delayed beyond such time by the act of the accused person. When the appointing officer imposes discharge or removal he or she shall, in writing, notify the person removed or discharged of the right to appeal the discharge or removal by mailing such statement to his last known address. The employee

shall have thirty days from the date of mailing of the notice to file an appeal of the matter in writing with the appointing officer. Upon receipt of a timely appeal, the appeal shall be conducted forthwith by a qualified and unbiased hearing officer who shall be employed under contract by the city and county and selected by procedures set forth in the rules of the civil service commission. The hearing officer shall publicly hear and determine the appeal, and may approve the discharge or removal, or exonerate, or suspend the accused.

If the employee is exonerated the hearing officer may, at his or her discretion, order payment of salary to the employee for the period of the discharge or removal or unpaid administrative leave, and the report of such period of discharge or removal or unpaid administrative leave shall thereupon be expunged from the record of service of such employee.

The civil service commission shall immediately be notified of the charges when made, of the action of the appointing officer to remove or discharge, of the appeal, and of the finding thereon. The finding of the hearing officer shall be final.

The civil service commission may remove or discharge an employee for any charge filed by a citizen or by any member of or authorized agent of the commission when the appointing officer neglects or refuses to take such action against the employee within 30 days of notification to the department head of the occurrence or event giving rise to the charge. Removal or discharge may be made for any cause after the employee is provided with written notice of the charges, copies of all documentation upon which the charges are based and after the employee has had the opportunity to respond to the charges before the civil service commission or its designee. The decision of the civil service commission shall be final.

Nothing in this section shall limit or restrict rules adopted by the commission governing dismissal of probationary employees, lay-offs or reduction in force or providing for the removal of any appointee who has abandoned his or her position as defined by civil service commission rule.

B. Notwithstanding the provisions of Subsection A above, a recognized employee organization and any affected city department may agree to alternative procedures, including final and binding arbitration by a neutral arbitrator jointly selected by the employee organization and the city, to deal with charges brought

against individual employees, the resolution of such charges and the appropriate discipline, if any, to be imposed on the employee. Said alternative procedures shall be included in a Memorandum of Understanding between the city and the employee organization which shall be effective when ratified by the board of supervisors.

#### **A8.342 DISCIPLINARY SUSPENSIONS**

The appointing officer may, for disciplinary purposes, suspend a subordinate for a period not exceeding 30 days; and suspension shall carry with it the loss of salary for the period of suspension. The suspended employee shall be notified in writing of the reason for such suspension, and if the suspension be for more than five days the employee shall, at his request, be given a hearing by the appointing officer. The decision of the appointing officer in all cases of suspension for disciplinary purposes shall be final.

#### **A8.343 FINE, SUSPENSION AND DISMISSAL IN POLICE AND FIRE DEPARTMENTS**

Members of the uniformed ranks of the fire or the police department guilty of any offense or violation of the rules and regulations of their respective departments, shall be liable to be punished by reprimand, or by fine not exceeding one month's salary for any offense, or by suspension for not to exceed three months, or by dismissal, after trial and hearing by the commissioners of their respective departments; provided, however, that the chief of each respective department for disciplinary purposes may suspend such member for a period not to exceed 10 days for violation of the rules and regulations of his department. Any such member so suspended shall have the right to appeal such suspension to the fire commission or to the police commission, as the case may be, and have a trial and hearing on such suspension. Written notice of appeal must be filed within 10 days after such suspension and the hearing of said appeal must be held within 30 days after the filing of said notice of appeal. If the commission shall reverse or alter the finding of the chief, it shall order that the member affected be paid salary for the time of the suspension received or altered. In the event the chief should exercise such power of suspension, the member involved shall not be subject to any further

disciplinary action for the same offense; provided, that where the Office of Citizen Complaints has sustained a complaint and recommended discipline in excess of a 10-day suspension, the Chief of Police may not exercise his or her power of suspension under this section without first meeting and conferring with the director of the Office of Citizen Complaints and affording the director an opportunity to verify and file charges with the Police Commission pursuant to Section 4.127. If the director of the Office of Citizen Complaints verifies and files charges, the Police Commission shall conduct a trial and hearing thereon, and the Chief of Police may not suspend the member pending the outcome of the Police Commission proceedings on the charges except as provided in Section A8.344.

Subject to the foregoing, members of the uniformed ranks of either department shall not be subject to dismissal, nor to punishment for any breach of duty or misconduct, except for cause, nor until after a fair and impartial trial before the commissioners of their respective departments, upon a verified complaint filed with such commission setting forth specifically the acts complained of, and after such reasonable notice to them as to time and place of hearings as such commission may, by rule, prescribe. The accused shall be entitled, upon hearing, to appear personally and by counsel; to have a public trial; and to secure and enforce, free of expense, the attendance of all witnesses necessary for his defense. (Amended November 2003)

#### **A8.344 TEMPORARY SUSPENSION PENDING COMMISSION HEARING; EXONERATION OF CHARGES**

In the circumstances listed in Section A8.341 the chief of the police department and the chief of the fire department may temporarily suspend a member of the respective department pending a hearing before the police or fire commission on disciplinary charges against the member, and the member shall be entitled to a prompt administrative hearing to determine if he or she should remain suspended pending the outcome of the commission proceedings. If a member of the uniformed ranks of the police and fire departments is suspended by the chief of the respective department pending hearing before the police or fire commission



for charges filed against him and subsequently takes a voluntary leave of absence without pay pending his trial before the commission, and, if after such trial he is exonerated of the charges filed against him, the commission shall order payment of salary to such member for the time under suspension and may, in its discretion, order payment of salary to such member for the time on voluntary leave of absence without pay, and the report of such suspension and leave of absence without pay shall thereupon be expunged from the record of service of such member. (Added November 2003)

#### **A8.345 DISCIPLINARY ACTION AGAINST STRIKING EMPLOYEES**

The people of the City and County of San Francisco hereby find that the instigation of, or participation in, strikes against said city and county by any member of the uniformed forces of the police or fire departments constitutes a serious threat to the lives, property and welfare of the citizens of said city and county and hereby declares as follows:

No uniformed member of the police and fire departments employed under the civil service provisions of this charter shall instigate, participate in, or afford leadership to a strike against the city and county, or engage in any picketing activity in furtherance of such a strike. In the event of any such strike against the city and county, it shall be the duty of the appropriate appointing officer of the city and county to ascertain the identity of any officer or employee of the city and county under his jurisdiction who is in violation of the provisions of this section and to initiate dismissal proceedings against said officer or employee in accordance with the provisions of Section 8.341 of this chapter. Any citizen of the city and county may file written charges against an officer or employee in violation of the provisions of this section and the appropriate appointing officer shall receive and investigate, without delay, any such written charge, and forthwith inform said citizen of findings and action, or proposed action, thereon.

If the appointing officer, after a hearing, determines that the charges are supported by the

evidence submitted, said appointing officer shall dismiss the employee involved and said employee shall not be reinstated or returned to City and County of San Francisco employment except as a new employee who is employed in accordance with the regular employment practices of the city and county in effect for the particular position of employment.

In the event any appointing officer determines that he shall be unable to meet constitutional due process requirements in providing a timely hearing to any officer or employee charged hereunder, he may, subject to the budget and fiscal provisions of the charter, engage the services of one or more qualified hearing officers to conduct hearings hereunder. In conducting said hearings, any hearing officer shall have the same powers as granted to an appointing officer hereunder.

No officer, board or commission of the city and county shall have the power to grant amnesty to any person charged with a violation of any of the provisions of this section.

In order to bring the provisions of this section to the attention of any person who may be affected thereby, each member of the uniformed force of the police department and each member of the uniformed force of the fire department on the effective date of this section, and each person appointed to the position of Q2 police officer or the position of H2 fireman on or after the effective date of this section shall be furnished a copy of the provisions of this section and shall make under oath and file in the office of the civil service commission the following declaration: "I hereby acknowledge receipt of a copy of the provisions of Section 8.345 of the charter of the City and County of San Francisco and hereby declare that during the term of my employment in either the Police Department or the Fire Department of said City and County, I shall neither instigate, participate in or afford leadership to a strike against said City and County nor engage in any picketing activity in furtherance of such a strike."

A dismissal imposed pursuant to this section (8.345) shall not be appealable to the civil service commission.



**A8.346 DISCIPLINARY ACTION AGAINST  
STRIKING EMPLOYEES OTHER THAN  
MEMBERS OF POLICE AND FIRE  
DEPARTMENT**

The people of the city and county of San Francisco hereby find that the instigation of or participation in, strikes against said city and county by any officer or employee of said city and county constitutes a serious threat to the lives, property, and welfare of the citizens of said city and county and hereby declare as follows:

(a) As used in this section the word “strike” shall mean the willful failure to report for duty, the willful absence from one's position, any concerted stoppage or slowdown of work, any concerted interruption of operations or services by employees, or the willful abstinence in whole or in part from the full, faithful, and proper performance of the duties of employment, for the purpose of inducing, influencing, or coercing a change in the conditions of employment; provided, however, that nothing contained in this section shall be construed to limit, impair, or affect the right of any municipal employee to express or communicate a view, grievance, complaint, or opinion on any matter related to the conditions or compensation of municipal employment or their betterment, so long as the same is not designed to and does not interfere with the full, faithful, and proper performance of the duties of employment.

(b) No person holding a position by appointment or employment under the civil service provisions of this charter, exclusive of uniformed members of the police and fire departments as provided under Section 8.345 of this charter, which persons are hereinafter referred to as municipal employees, shall strike, nor shall any municipal employee cause, instigate, or afford leadership to a strike against the city and county of San Francisco. For the purposes of this section, any municipal employee who willfully fails to report for

*[Section A8.346 continues on page 11.]*

*[Section A8.346 continues on page 11.]*

duty, is willfully absent from his or her position, willfully engages in a work stoppage or slowdown, willfully interrupts city operations or services, or in any way willfully abstains in whole or in part from the full, faithful, and proper performance of the duties of his or her employment because such municipal employee is "honoring" a strike by other municipal employees, shall be deemed to be on strike.

(c) No person exercising any authority, supervision, or direction over any municipal employee shall have the power to authorize, approve, or consent to a strike by any one or more municipal employees, and such person shall not authorize, approve, or consent to such strike. No officer, board, commission or committee of the city and county of San Francisco shall have the power to grant amnesty to any person who has violated any of the provisions of this section, and such officer or bodies shall not grant amnesty to any person who has violated any of the provisions of this section.

(d) Notwithstanding any other provision of law, a person violating any of the provisions of this section may subsequent to such violation be appointed or reappointed, employed or re-employed as a municipal employee of the city and county of San Francisco, but only on the following conditions:

(1) such person shall be appointed or reappointed, employed or re-employed as a new appointee or employee, who is appointed or employed in accordance with all charter provisions, ordinances, rules or regulations of said city and county in effect for new employees at the time of appointment, reappointment, employment or re-employment;

(2) the compensation of such person shall not be increased by virtue of any previous employment with said city and county.

(e) In the event of a strike, or if the mayor with the concurrence of a majority of the board of supervisors determines that a strike is imminent, a special committee shall convene forthwith, which special committee shall consist of the presidents of the airports commission, civil service commission, fire commission, police commission, public transportation commission and public utilities commission. The president of the civil service commission shall serve as chairman of the special committee. Notwithstanding any other provision of law, it shall be the duty of the

special committee to dismiss in accordance with the provisions of this section any municipal employee found to be in violation of any provisions of this section. Any person may file with the special committee written charges against a municipal employee or employees in violation of any of the provisions of this section and the special committee shall receive and investigate, without undue delay, and where necessary take appropriate actions regarding any such written charge(s), and forthwith inform that person of its findings and action, or proposed action thereon.

In the event of a strike or determination of imminent strike as specified above, each appointing officer shall deliver each day no later than 12:00 o'clock noon to the chairman of the special committee a record of the absence of each employee under his or her authority for the prior day and a written report describing incidents of and the participant(s) in violations of this section wherever the identity of the participant(s) is known to him or her and the participant(s) is (are) under his or her authority.

In addition each appointing officer shall provide to the special committee, whenever it has been convened under authority of law, any other information determined by the special committee to be necessary for the discharge of its duties. The failure of an appointing officer to discharge any of the duties imposed upon him or her by this section shall be official misconduct.

(f) An employee charged by the special committee with a violation of this section shall be notified of the time and place of the hearing on the charges and of the nature of the charges against him or her. Said employee shall be given such other information as is required by due process. Said employee shall respond to said charges by a sworn affidavit, signed by him or her, and by such other information and documentation and in such a manner as is prescribed by the special committee. An employee failing to provide the responses required by this section or in any way failing to comply with the procedural time limitations and information requirements imposed by the special committee shall be immediately suspended and shall not be entitled to a hearing until he or she has fully complied with the aforementioned requirements.

If the special committee, after a hearing, determines that the charges against the employee are supported by the preponderance of the evidence submitted, said special committee shall dismiss the employee involved and said employee shall not be reinstated or returned to city and county service except as specified in Subsection (d). A dismissal or suspension invoked pursuant to the provisions of this section shall not be appealable to the civil service commission.

(g) The special committee shall discharge its duties in a timely manner while preserving the due process rights of employees with the objective of obtaining immediate sanctions against striking employees. The willful failure of any member of this special committee faithfully and fully to discharge his or her duties in a timely manner and to accord absolute priority to the performance of those duties shall be deemed official misconduct.

In the event the special committee determines that it shall be unable to comply with constitutional due process requirements that a timely hearing be provided or that it shall be unable to comply with its obligations fully and in a timely manner to investigate and hear all violations of this section, then the special committee may, subject to the budget and fiscal provisions of the charter, engage the administrative and clerical personnel, investigators, and one or more hearing officers to conduct hearings hereunder. In conducting hearings, the hearing officers shall have the same powers of inquiry and disposition as the special committee.

(h) In order to provide for the effective operation of this section in the event of a strike or determination of imminent strike, the president of the civil service commission, not later than 30 days after this section becomes effective, shall convene the special committee which shall adopt rules, regulations, and procedures for the investigation, hearing and disposition of all violations of this section.

(i) In order to bring the provisions of this section to the attention of any person who may be affected thereby, each municipal employee on the effective date of this section, exclusive of members of the uniformed forces of the police and fire departments as provided in Section 8.345 hereof, and each person appointed or employed as a municipal employee pursuant to the civil service provisions of

this charter, exclusive of persons appointed to the entrance positions in the uniformed forces of the police and fire departments as provided in Section 8.345 hereof, on or after the effective date of this section shall be furnished a copy of this section and shall acknowledge such receipt in writing. The signed, written receipt shall be filed in the office of the civil service commission and maintained therein for the term of his or her employment with the City and County of San Francisco.

(j) The provisions of Sections 3.100 and 3.100-1, relating to the emergency powers of the mayor, shall not be applicable to the provisions of this section.

(k) If any clause, sentence, paragraph, subsection, or part of this section shall be adjudged by any court of competent jurisdiction to be invalid, such judgment shall not affect, impair or invalidate the remainder thereof, but shall be confined in its operation to the clause, sentence, paragraph, subsection, or part thereof directly involved in the controversy in which such judgment shall have been rendered.

#### **A8.364 AUTHORIZATION TO TRANSFER UNUSED SICK LEAVE**

(a) Employees of the City and County of San Francisco may transfer their unused accumulated sick leave to other employees of the City and County of San Francisco who have been determined to be catastrophically ill, and who have exhausted their vacation allowance, sick leave and compensatory time off, provided that such determination and such transfer may be made only in compliance with the terms and conditions established by ordinance adopted by the board of supervisors.

(b) Notwithstanding Sections 8.360 and 8.363 of this charter, within sixty (60) days of the effective date of this section, the Health Commission, Civil Service Commission, and Retirement Board shall conduct a joint hearing to consider and develop recommendations for submission to the Board of Supervisors. The Board of Supervisors shall adopt an ordinance, as provided in subsection (a), and establish any rules necessary to administer, interpret, and regulate the provisions of this section, provided that all such rules shall be approved, amended, or rejected by resolution by the Board of Supervisors. (Amended November 1999)



### **A8.365 COMPENSATION DURING PARENTAL LEAVE**

Under federal, state and local law, employees are entitled to take an unpaid leave of absence in the event of pregnancy disability or to care for a child after birth or placement for adoption or foster care. But employees may not have the financial resources to take advantage of this leave. This section provides compensation to supplement state disability insurance payments, paid sick leave, compensatory time, and other forms of paid leave, to ensure that an employee will receive the equivalent of the employee's salary for 12 weeks or, if the employee is temporarily disabled by pregnancy, up to 16 weeks, while on approved leave.

In accordance with this section, eligible employees on approved Parental Leave shall receive supplemental compensation as set forth herein.

Nothing in this section shall be construed to expand, reduce or otherwise affect the total amount of leave time available to employees under federal, state, or local law, Civil Service Commission rules, or applicable memoranda of understanding between the City and County of San Francisco and employee organizations. This section is intended to supplement other available sources of income during specified periods of leave to which the employee is otherwise eligible. Except for leave mandated by law, requests for leave continue to be subject to the approval of the appointing officer. (Added November 2002)

### **A8.365-1 DEFINITIONS**

The following words and phrases as used in this section, unless a different meaning is plainly required by the context, shall have the following meaning:

"Domestic Partner" shall have the same meaning as set forth in Administrative Code Section 62.1 et seq.

"Employee" shall mean any person who is appointed to a position created by or which is under the jurisdiction of the City and County, whose compensation is paid by the City and County, and who is under the control of the City and County as to employment, direction and discharge and does not include persons who occupy classified or certificated positions with the San Francisco Unified School

District or the Community College District or who work for the City as independent contractors.

"Paid Leave" shall mean all paid time-off provided by the Charter, the Administrative Code, the Civil Service Rules or through a collective bargaining agreement and shall include but not be limited to vacation, sick leave, compensatory time, administrative or executive leave and floating holidays. For purposes of this section, "Paid Leave" shall not include statutory holidays.

"Parental Leave" shall mean (a) Family Medical Leave as defined below; (b) Temporary Pregnancy Disability Leave as defined below:

(a) "Family Medical Leave" shall mean leave taken pursuant to the Family and Medical Leave Act, the California Family Rights Act, or Civil Service Commission Rules, where such leave is taken after the birth of a child to the employee, the employee's spouse or the employee's domestic partner or for placement of a child with the employee's family for adoption or foster care, and has been requested and approved in accordance with the procedures set forth in those respective statutes or rules.

(b) "Temporary Pregnancy Disability Leave" shall mean disability leave taken in accordance with State law or the Civil Service Commission Rules because of an employee's inability to work, as certified by a health care provider, for reasons of pregnancy, childbirth, or related conditions, as defined by the California Fair Employment and Housing Act, Govt. Code Section 12945(b)(2) et seq.

"Supplemental Compensation" shall mean compensation paid by the City to eligible employees on Parental Leave. The amount of Supplemental Compensation shall be the employee's regular base wage less (1) accrued paid leave from the City and (2) any payments received by the employee from a federal, state or other local government agency in lieu of compensation. (Added November 2002)

### **A8.365-2 ELIGIBILITY**

The following employees shall be eligible to receive compensation as set forth herein:

(a) Permanent, provisional, and exempt employees whose normal work week is not less than twenty (20) hours upon completion of six months of continuous service; and

(b) All other employees of the City and County of San Francisco, including "as needed" employees, who have worked one thousand and forty hours (1040) in the twelve (12) months prior to the beginning of the parental leave and whose average work week is not less than twenty hours. (Added November 2002)

### **A8.365-3 DURATION**

Employees shall receive supplemental compensation as set forth herein for a period not to exceed twelve weeks while on approved Family Medical Leave. Employees who take approved Temporary Pregnancy Disability Leave shall receive up to an additional four weeks of compensation. Such compensation shall be subject to the conditions set forth in Section A8.365-4. (Added November 2002)

### **A8.365-4 SUPPLEMENTAL COMPENSATION**

(a) Employees shall receive their regular base wage while on approved Parental Leave subject to the following conditions;

(1) Employees on approved Parental Leave shall first exhaust all accrued paid leave before receiving any Supplemental Compensation under this section. If an employee chooses not to exhaust these leaves, the total amount of the benefit for which the employee would otherwise have been eligible will be reduced by the amount of paid leave accrued by the employee as of the start of the leave.

(2) The amount of Supplemental Compensation shall be reduced by any payments received by the employee from a federal, state or other local government agency while on Parental Leave.

(3) Supplemental Compensation shall be provided for no more than twelve weeks, in the case of employees taking Family Medical Leave, or sixteen weeks, in the case of employees who take Temporary Pregnancy Disability Leave. For employees eligible for both Family Medical Leave and Temporary Pregnancy Disability Leave, Supplemental Compensation shall be provided for no more than sixteen weeks total. The twelve or sixteen week period shall be reduced by any paid leave taken after the birth of a child to the employee, the employee's spouse, or the employee's domestic partner, placement of a child

with the employee's family for adoption or foster care, or taken for temporary pregnancy disability, within twelve months prior to the commencement of Parental Leave as defined herein.

(4) Under no circumstance shall an employee receive from the City supplemental compensation under this Charter section which would result in an employee receiving total compensation while on Parental Leave which is greater than the employee's regular base wage.

(b) During parental leave, the City shall continue to pay the contributions required by this Charter for retirement and health benefits, and any employer-paid employee retirement and health contributions required under the memorandum of understanding or unrepresented ordinance covering the employee. Retirement contributions shall be based on the actual amount of City pay received during the period of parental leave. (Added November 2002)

### **A8.365-5 REIMBURSEMENT**

Any individual receiving compensation pursuant to this section shall execute an agreement providing that if the individual voluntarily separates from City service prior to returning to work for at least six months, the compensation described in Section A8.365-4 shall be treated as a loan payable with interest at a rate equal to the greater of (i) the rate received for the concurrent period by the Treasurer's Pooled Cash Account or (ii) the minimum amount necessary to avoid imputed income under the Internal Revenue Code of 1986, as amended from time to time, and any successor statute. Unless an alternative repayment schedule is agreed to by the City and the individual, such loan shall be payable in equal monthly installments over a period not to exceed 5 years, commencing 30 days following the individual's separation from City employment. (Added November 2002)

### **A8.365-6 NON-VESTED BENEFIT**

This Charter section creates no vested benefits. The voters expressly reserve the right to review the City's parental leave policy and the benefits provided in this section and may alter or repeal such benefits for any or no reason.

#### **A8.365-7 RULES FOR ADMINISTRATION, INTERPRETATION AND REGULATION OF PARENTAL LEAVE**

Within 120 days of approval by the voters of this Amendment, the Department of Human Resources shall develop any procedures necessary to administer, interpret, and regulate the provisions of this section, provided that all such rules shall be approved, amended, or rejected by ordinance by the Board of Supervisors.

The amendments of this section contained in the proposition therefor submitted to the electorate on November 5, 2002 shall be effective July 1, 2003. (Added November 2002)

#### **A8.400 GENERAL RULES FOR ESTABLISHING AND PAYING COMPENSATION**

(a) The board of supervisors shall have power and it shall be its duty to fix by ordinance from time to time, as provided in Section 8.401, all salaries, wages and compensations of every kind and nature, except pension or retirement allowances, for the positions, or places of employment, of all officers and employees of all departments, offices, boards and commissions of the city and county in all cases where such compensations are paid by the city and county.

(b) The board of supervisors shall have power by ordinance to provide the periods when salaries and wages earned shall be paid provided, that until such ordinance becomes effective, all wages and salaries shall be paid semi-monthly. No salary or wage shall be paid in advance. It shall be official misconduct for any officer or employee to present or approve a claim for full-time or continuous personal service other than in the manner provided by this charter.

(c) All personal services shall be paid by warrants on the basis of a claim, bill, timeroll or payroll approved by the head of the department or office employing such service. The claims, bills or payrolls, hereinafter designated as payrolls, for salaries, wages or compensation for personal services of all officers, assistants and employees of every class or description, without regard to the name or title by which they are known, for each department or office of the city and county shall be transmitted to the department of human resources before presentation to the controller.

(d) The human resources director shall verify that all persons whose names appear on payrolls have been legally appointed to or employed in positions legally established under this charter. In performing such verification said director may rely upon the results of electronic data processing. Said director shall direct his attention to exception reports produced by such processing; he shall approve or disapprove each item thereon and transmit said exception reports to the controller. The controller shall not draw his warrant for any claim for personal services, salary, wages or compensation which has been disapproved by the said director.

(e) For the purpose of the verification of claims, bills, timerolls, or payrolls, contractual services represented by teams or trucks hired by any principal executive or other officer of the city and county shall be considered in the same manner as personal service items and shall be included on payrolls as approved by said principal executive or other officers, and shall be subject to examination and approval by the human resources director and the controller in the same manner as payments for personal services.

(f) The salary, wage or other compensation fixed for each officer and employee in, or as provided by this charter, shall be in full compensation for all services rendered, and every officer and employee shall pay all fees and other moneys received by him, in the course of his office or employment, into the city and county treasury.

(g) No officer or employee shall be paid for a greater time than that covered by his actual service; provided, however, that the basic amount of salary, wage or other compensation, excluding premium pay differentials of any type whatsoever of any officer or employee who may be called upon for jury service in any municipal, state or federal court, shall not be diminished during the term of such jury service. There shall, however, be deducted from the amount of basic salary, wage or other compensation, excluding any pay premium differentials of any type whatsoever payable by the city and county to the officer or employee for such period as such officer or employee may be absent on account of jury service, any amounts which the officer or employee may receive on account of such jury service. Any absence from regular duty or employment while on jury duty shall



be indicated on timerolls by an appropriate symbol to be designated by the controller.

(h) Notwithstanding any other limitation in the Charter to the contrary, and subject to meet and confer obligations of state law, the Mayor may request that the Board of Supervisors enact, and the Board shall then have the power to so enact, an ordinance entitling City officers or employees called to active duty with a United States military reserve organization to receive from the City the following as part of the individual's compensation: for a period to be specified in the ordinance, the difference between the amount of the individual's military pay and the amount the individual would have received as a City officer or employee had the employee worked his or her normal work schedule, including any merit raises which otherwise would have been granted during the time the individual was on active duty. Any such ordinance shall be subject to the following limitations and conditions:

1. The individual must have been called into active service for a period greater than 30 consecutive days.

2. The purpose for such call to active service shall be extraordinary circumstances and shall not include scheduled training, drills, unit training assemblies, or similar events.

3. The amounts authorized pursuant to such an ordinance shall be offset by amounts required to be paid pursuant to any other law in order that there be no double payments.

4. Any individual receiving compensation pursuant to such an ordinance shall execute an agreement providing that if such individual does not return to City service within 60 days of release from active duty, or if the individual is not fit for employment at that time, within 60 days of return to fitness for employment, then that compensation shall be treated as a loan payable with interest at a rate equal to the greater of (i) the rate received for the concurrent period by the Treasurer's Pooled Cash Account or (ii) the minimum amount necessary to avoid imputed income under the Internal Revenue Code of 1986, as amended from time to time, and any successor statute. Such loan shall be payable in equal monthly installments over a period not to exceed 5 years, commencing 90 days after the individual's release from active service or return to fitness for

employment, as the case may be.

5. Such an ordinance shall not apply to any active duty served voluntarily after the time that the individual is called to active service.

6. Such ordinance shall not be retroactive. (Amended March 2004)

## **A8.401 EARLY RETIREMENT BENEFITS TARGETED TO MITIGATE LAYOFFS**

### **A8.401-1 PURPOSE**

The current fiscal crisis requires the City and County to lay off employees to balance its budget. The need for such layoffs is expected to continue through fiscal years 2003-2004 and 2004-2005. The purpose of this early retirement measure is to: (1) encourage employees in classifications identified for layoff, due to cuts in City and County services or functions, to take early retirement, (2) minimize the effects of layoffs on employees already laid off from these classifications by increasing the possibility of return from holdover lists, (3) achieve good labor relations by extending the benefits to eligible employees who were laid off after March 1, 2003, but before the date this measure was enacted, (4) limit early retirement benefits to employees in classifications identified for layoffs, (5) provide for certification by the Controller that the number of employees selected for early retirement benefits in each classification shall not exceed the number of employees separated due to layoff, and (6) provide for participation by the School District and the Community College District. (Added November 2003)

### **A8.401-2 EARLY RETIREMENT BENEFITS**

The following criteria govern those employees eligible to receive the early retirement benefit set forth in Section A8.522 of the Charter. (Added November 2003)

### **A8.401-3 AUTHORITY**

During fiscal years 2003-2004 and 2004-2005, the Mayor shall identify, subject to confirmation by the Controller and the Director of the Department of Human Resources ("Director"):

(A) City and County services or functions that have been terminated or reduced during the fiscal year because of budget constraints, and



(B) The classifications of positions that have been eliminated in the budget for the fiscal year because of the termination or reduction of City and County services or functions ("Identified Classifications"). (Added November 2003)

#### **A8.401-4 SCHEDULE**

The determinations made by the Mayor, Controller and the Director under Section A8.401-3, above, shall be made after the Board of Supervisors has enacted the budget for the fiscal year or adopted a supplemental change to the budget. (Added November 2003)

#### **A8.401-5 ELIGIBILITY**

The Director shall develop procedures according to the following criteria and limitations to identify those employees eligible to receive early retirement benefits due to layoffs in Identified Classifications.

(A) The Director shall identify employees eligible for early retirement benefits in the following order:

1. Permanent civil service employees

- a. In order of seniority, employees currently employed in an Identified Classification and employees laid off between March 1, 2003 and June 30, 2005 from an Identified Classification.

- b. In order of seniority, employees currently employed in classifications that have been near-listed to an Identified Classification.

The Director shall determine seniority at the time of notification using the Civil Service Commission rules on layoff. A current employee who has not received notice that he or she will be separated from employment due to layoff shall be eligible for early retirement benefits only if his or her retirement would result in the retention or return to employment of an employee who has received notice of separation or been separated from employment due to layoff.

2. Exempt and provisional employees.

Exempt and provisional employees, employed under Charter Sections 10.104 or 10.105, shall be eligible for early retirement benefits only if they have been involuntarily separated from employment due to layoff between March 1, 2003 and June 30, 2005 from an Identified Classification.

(B) The number of employees who receive early retirement benefits in each Identified Classification

shall not exceed the number of employees noticed for separation or separated from employment due to layoffs in the Identified Classification. The Controller shall certify the names of the employees identified, and that the number of employees identified for early retirement benefits in each Identified Classification does not exceed the number of employees separated from employment due to layoffs in the Identified Classification. (Added November 2003)

#### **A8.401-6 NOTIFICATION PROCEDURE**

The Director shall notify in writing those employees eligible for early retirement benefits, with a copy to the retirement system, and shall set a deadline for the employees to retire, not to exceed 30 days after notification. (Added November 2003)

#### **A8.401-7 EXTENSION**

This program may be extended by a three-fourths vote of the Board of Supervisors. The Board may authorize an extension limited to fiscal years 2005-2006 and 2006-2007. (Added November 2003)

#### **A8.401-8 COSTS**

The City and County, not the Retirement System, shall bear the costs of identifying and giving notice, as described in this section, to employees eligible for the early retirement benefit. (Added November 2003)

#### **A8.401-9 SCHOOL AND COMMUNITY COLLEGE DISTRICTS**

For the purpose of offering early retirement benefits to their eligible employees, the San Francisco Unified School District and the San Francisco Community College District, through their authorized officials, shall exercise the authority granted in Section A8.401-3 to identify classifications of positions, held by employees enrolled in the San Francisco Retirement System, that meet the criteria in Section A8.401-3. Any offer of early retirement benefits to School District or Community College District employees shall be governed by the criteria, limitations and procedures set forth in Sections A8.401-3 through A8.401-8 above. The determinations made in Section A8.401-3 by the School District or the Community College District shall be made after the governing bodies of the School District or Community College District, as appropriate, have

adopted the budget for the fiscal year or adopted a supplemental change to the budget. (Added November 2003)

#### **A8.401-10 NON-VESTED BENEFIT**

This Section and Section A8.522 do not create vested rights in any employee who has not yet retired under this Section. The voters expressly reserve the right to alter or repeal for any reason the early retirement benefits provided in this Section and Section A8.522. (Added November 2003)

#### **A8.401-11 DISCRETIONARY AUTHORITY**

The determinations made under this Section are within the sole discretion of the City and County, School District and Community College District. In adopting this charter amendment the voters intend to grant broad discretion to City and County officials, including the Director and the Controller, as well as appropriate School District and Community College District officials. The voters intend that courts grant deference to these officials' interpretations and applications of the provisions of this charter amendment. The voters intend that courts defer to the decisions of these officials unless they are devoid of any conceivable basis in reason. The voters do not intend to impose any duties on the City and County, or its officials, including the Director and Controller, or on the School District, Community College District, or their officials, for breach of which any aggrieved party may recover damages, attorneys fees or costs. (Added November 2003)

#### **A8.402 COMPENSATION OF TEACHERS, PART-TIME EMPLOYEES AND CERTAIN OTHER GROUPS**

Compensations of the teaching and other technical forces of the school department and employees of the Steinhart Aquarium and law library departments, construction employees engaged outside of the city and county, part-time employees, and inmate and institutional help receiving less than \$50 per month, shall be fixed by the department head in charge thereof, with the approval of the board or commission, if any, in charge of the department concerned and subject to the budget and appropriation provisions of this charter; provided that part-time employees shall be recorded as such by a principal executive, only with approval of the civil service commission and,

when so recorded, shall be noted as part-time on payrolls, budget estimates, salary ordinance and similar documents.

#### **A8.403 COMPENSATION FOR REGISTERED NURSE CLASSIFICATIONS**

The salary, conditions and benefits of employment of the various classifications of nurses required to possess a registered nurse license issued by the State of California as provided for in this section as compensation shall be determined and fixed annually as follows:

(a) On or before May 1, 1982, and each year thereafter, the civil service commission shall certify to the board of supervisors for the acute care staff nurse classification the highest prevailing salary schedule in effect on April 15 of that year, and salary adjustments, if any, to be effective during the city and county's next succeeding fiscal year, granted by collective bargaining agreement to comparable registered nurse employees in public and private employment in the counties of Alameda, Contra Costa, Marin, San Mateo, San Francisco and Santa Clara. Rates of pay for other registered nurse classifications shall reflect not less than the same relationships to the benchmark registered nurse classification that those classifications had in fiscal year 1980-1981 to the then benchmark classification.

(b) The board of supervisors shall on or before June 1, 1982, and each year thereafter, fix a salary schedule for each classification which shall not be in excess of the schedules certified by the civil service commission, for each such classification, except as provided in Subsection (f) below, and provided, further, that no employee's basic rate of pay shall be reduced to conform to the highest prevailing salary schedule except as provided for in Section 8.406;

(c) The rates of pay fixed for each classification shall become effective at the beginning of the next succeeding fiscal year;

(d) The terms "salary schedule" and "salary schedules" wherever used in this section are hereby defined and intended to include only the maximum rate of pay provided in each such salary schedule; the term "salary adjustments" shall mean an increase or decrease to the maximum rate of pay;

(e) At the time the board of supervisors fixes the salary schedule as provided in (b) above, the board of supervisors may fix as conditions and benefits of

employment other than salaries as compensation for each classification, conditions and benefits not to exceed the intent of those conditions and benefits granted by collective bargaining agreements to comparable classifications by the employer used for certification of the highest prevailing salary schedule by the civil service commission. The board of supervisors may establish such conditions and benefits notwithstanding other provisions or limitations of this charter, with the exception that such conditions and benefits shall not involve any change in the administration of or benefits of the retirement system, health service system or vacation allowances provided elsewhere in this charter. Conditions and benefits of employment existing prior to July 1, 1982 may be continued by the board of supervisors;

(f) When the employer used for certification in Subsection (a) above, provides rates of pay during the current fiscal year in excess of those fixed by the board of supervisors for said current fiscal year, or vacation and health service benefits greater than such similar benefits provided by this charter for the staff nurse classification, the civil service commission shall certify to the board of supervisors an amount not to exceed the difference of such salary and benefits converted to dollar values and the board of supervisors may provide additional salary, conditions and benefits of employment at a cost not to exceed said dollar value.

#### **A8.404 SALARIES AND BENEFITS OF CARMEN**

The wages, conditions and benefits of employment as provided for in this section of the various classifications of employment of platform employees and coach or bus operators of the municipal railway as compensation, shall be determined and fixed annually as follows:

(a) On or before the first Monday of August of each year, the civil service commission shall certify to the board of supervisors for each classification of employment the average of the two highest wage schedules in effect on July 1st of that year for comparable platform employees and coach or bus operators of other surface street railway and bus systems in the United States operated primarily within the municipalities having each a population of not less than 500,000 as determined by the then most recent census taken and published by the director of the

census of the United States, and each such system normally employing not less than 400 platform employees or coach or bus operators, or platform employees, coach and bus operators.

(b) The board of supervisors shall thereupon fix a wage schedule for each classification of platform employees and coach and bus operators of the municipal railway which shall not be in excess of the average of the two highest wage schedules so certified by the civil service commission for each such classification.

(c) When, in addition to their usual duties, such employees are assigned duties as instructors of platform employees or coach or bus operators they shall receive additional compensation that shall be subject to negotiation in addition to the rate of pay to which they are otherwise entitled under the wage schedule as herein provided.

(d) The rates of pay fixed for platform employees and coach and bus operators as herein provided shall be effective from July 1st of the year in which such rates of pay are certified by the civil service commission.

(e) The terms "wage schedule" and "wage schedules" wherever used in this section are hereby defined and intended to include only the maximum rate of pay provided in each such wage schedule.

(f) At the time the board of supervisors fixes the wage schedule as provided in (b) above, the board of supervisors may fix as conditions and benefits of employment other than wages as compensation for platform employees and coach or bus operators of the municipal railway, conditions and benefits not to exceed those conditions and benefits granted by collective bargaining agreements to the comparable platform employees and coach or bus operators of the two systems used for certification of the average of the two highest wage schedules by the civil service commission. The board of supervisors may establish such conditions and benefits notwithstanding other provisions or limitations of this charter, with the exception that such conditions and benefits shall not involve any change in the administration of, or benefits of the retirement system, health service system or vacation allowances as provided elsewhere in this charter. For all purposes of the retirement system as related to this section, the word "compensation" as used in Section 8.509 of this charter shall mean the "wage schedules" as fixed in



accordance with paragraphs (a) and (b) above, including those differentials established and paid as part of wages to platform employees and coach and bus operators of the municipal railway, but shall not include the value of those benefits paid into the fund established as herein provided. Provided that when in the two systems used for certification as provided above, vacation, retirement and health service benefits are greater than such similar benefits provided by this charter for platform employees, coach or bus operators of the municipal railway, then an amount not to exceed the difference of such benefits may be converted to dollar values and the amount equivalent to these dollar values shall be paid into a fund. The fund shall be established to receive and to administer said amounts representing the differences in values of the vacation, retirement and health service benefits, and to pay out benefits that shall be jointly determined by representatives of the city and county government and the representatives of the organized platform employees and coach and bus operators of the municipal railway. The civil service commission shall adopt rules for the establishment and general administration of the fund as herein provided. Such rules shall provide for a joint administration of the fund by representatives of the city and county government, which shall include representatives of the administrator of the agency responsible for the municipal railway and representatives of the organized platform employees, coach and bus operators of the municipal railway. Such rules may provide a procedure for final and binding arbitration of disputes which may arise between representatives of the city and county government and the representatives of the organized platform employees and coach and bus operators of the municipal railway. Such rules shall provide that all investments of the fund shall be of the character legal for insurance companies in California. Such rules and any amendments thereto shall be effective upon approval by the board of supervisors by ordinance.

(g) Notwithstanding any provisions of this charter, including other subparts of this section, the board of supervisors may, after meeting and conferring with and reaching agreement with the employee organization certified as the representative for municipal railway operators, fix wages and benefits of employment other than wages for platform employees and coach and bus operators of the

municipal railway under this section for periods in excess of one year. Any ordinance fixing wages and benefits of employment other than wages adopted pursuant to this section for a period of more than one year shall contain a provision to the effect that during said period of time it shall be unlawful for the employees receiving the compensation so fixed to engage in a strike, work stoppage or conduct delaying or interfering with work at city and county facilities. Wages and benefits of employment other than wages established under this section shall not in any year exceed the limits established under paragraphs (b) and (f) of this section.

(h) Not later than the 25th day of August, the board of supervisors shall have the power and it shall be its duty, subject to the fiscal provisions of the charter but, without reference or amendment to the annual budget, to amend the annual appropriation ordinance and the annual salary ordinance as necessary to include the provisions for paying the rates of compensation and conditions and benefits other than wages fixed by the board of supervisors as in this section provided for platform employees and coach or bus operators for the then current fiscal year.

On recommendation of the civil service commission the board of supervisors shall establish a rate of pay for trainee platform men and bus or coach operators at a level reflecting the current labor market but below the basic hourly rate for motorman, conductor and bus operator.

#### **A8.405 SALARIES OF UNIFORMED FORCES IN THE POLICE AND FIRE DEPARTMENTS**

(a) Not later than the first day of August of each year, the civil service commission shall survey and certify to the board of supervisors rates of compensation paid police officers or patrol officers employed in the respective police departments in all cities of 350,000 population or over in the State of California, based upon the latest federal decennial census. For the purpose of the civil service commission's survey and certification the rates contained in said certification shall be the average of the maximum rates paid to each police officer or patrol officer classification performing the same or essentially the same duties as police officers or patrol officers in the City and County of San Francisco.

Thereupon the board of supervisors shall have the power, and it shall be its duty, by ordinance, to fix



rates of compensation for the members of the police department whose annual compensations are set forth in Section 3.531 of this charter and said rates shall be in lieu of said annual compensations and shall be effective from the first day of July of the current fiscal year.

The rates of compensation, fixed in said ordinance,

(1) for the fourth year of service and thereafter for police officers, police patrol drivers and women protective officers the compensation shall be fixed at a rate which is the average maximum wage paid to police officer or patrol officer classifications in regular service in the cities included in the certified report of the civil service commission. "Average wage" as used in this paragraph shall mean the sum of the maximum averages certified by the civil service commission divided by the number of police officer classifications in cities in said certification;

(2) for the first, second and third year of service for police officers, police patrol drivers and women protective officers shall be established in accordance with the general percentage differential between seniority steps found in the salary ranges included in the cities certified by the civil service commission for the same class;

(3) for said members of the police department other than police officers, police patrol drivers and women protective officers shall include the same percent of adjustment as that established by said ordinance for police officers in the fourth year of service; and

(4) shall be set at the dollar amount nearest the fractional amount which may result from percentage adjustment specified in this section, half dollars being taken to the next higher dollar amount.

The rates of compensation set forth in the budget estimates, the budget and the annual salary ordinance shall be those fixed by the board of supervisors as in this section provided and appropriations therefor shall be based thereon.

The expression "rates of compensation," as used in this section in relation to said survey, is hereby declared to apply only to a basic amount of wages, with included range scales, and does not include such working benefits as might be set up by any other city by way of holidays, vacations, other permitted absences of any type whatsoever, overtime, night or

split shift, or pay for specialized services within a classification or rank, or other premium pay differentials of any type whatsoever. The foregoing enumeration is not exclusive, but it is the intent of this section that nothing other than a basic amount of wages, with included range scales, is to be included within the meaning of "rates of compensation."

Working benefits and premium pay differential of any type shall be allowed or paid to members of the police department referred to herein only as is otherwise provided in this charter.

For all purposes of the retirement system, the expression "rates of compensation" as used in this section, shall mean "salary attached to the rank" as used in Section 166 of the charter of 1932, as amended, and with the addition of fifteen dollars (\$15) per month now provided in Subsection (b) with respect to members assigned to two-wheel motorcycle duty, shall also mean "compensation earnable" as used in Section 8.549.

The term "police officers or patrol officers" as used in this section shall mean the persons employed in the police departments of said cities of 350,000 population or over or of the City and County of San Francisco, to perform substantially the duties being performed on the effective date of this section by police officers, police patrol drivers and women protective officers in the San Francisco Police Department.

In determining years of service necessary for a police officer, woman protective officer and police patrol driver to receive the annual compensation as provided for herein, service rendered prior to the effective date of this amendment shall be given full credit and allowed.

The absence of any police officer, woman protective officer or police patrol driver on military leave, as defined by Section 8.361 of this charter, shall be reckoned a part of his service under the city and county, for the purpose of computing years of service in gaining added compensation as provided for herein.

On the recommendation of the chief of police, the commission may reward any member of the department for heroic or meritorious conduct. The form or amount of said reward to be discretionary with the commission, but not to exceed one month's salary in any one instance.

If any member of the department appointed as an assistant inspector is a sergeant at the time of the appointment or is appointed a sergeant thereafter, such member shall receive the rate of compensation attached to the rank of sergeant.

(b) Not later than first day of August of each year the civil service commission shall survey, and certify to the board of supervisors, additional rates of pay paid to members assigned to all two-wheel motorcycle duty in the respective police departments of all cities of 350,000 population or over in the State of California, based upon the latest decennial census. For the purpose of the civil service commission's survey and certification the additional rates for two-wheel motorcycle duty shall include the average additional amount paid to members assigned to two-wheel motorcycle duty in the cities surveyed.

Thereupon the board of supervisors shall have the power, and it shall be its duty, by ordinance, to fix the additional rate of pay for the members of the police department who are assigned two-wheel motorcycle duty. The additional rate of pay will be determined by the average additional wage paid to members in regular service in the cities included in the certified report of the civil service commission who are assigned to two-wheel motorcycle duty. "Average wage" as used in this paragraph shall mean the sum of the additional rates of pay certified by the civil service commission divided by the number of cities in said certification. Said additional rates shall be in lieu of said annual compensations and shall be effective from the first day of July of the current fiscal year.

Said rate of pay shall be in addition to the rate of compensation provided for in Subsection (a).

In no event shall the additional rate so fixed be less than fifteen dollars (\$15) per month.

(c) Not later than the first day of August of each year, the civil service commission shall survey and certify to the board of supervisors rates of compensation paid firefighters employed in the respective fire departments of all cities of 350,000 population or over in the State of California, based upon the latest federal decennial census. For the purpose of the civil service commission's survey and certification the rates contained in said certification shall be the average of the maximum rates paid to each firefighter classification performing the same or

essentially the same duties as firefighters in the City and County of San Francisco.

Thereupon, the board of supervisors shall have the power, and it shall be its duty, by ordinance, to fix rates of compensation for the members of the fire department whose annual compensations are set forth or otherwise provided in Section 3.542 of this charter, and said rates shall be in lieu of said annual compensations and shall be effective from the first day of July of the current fiscal year.

The rates of compensation, fixed in said ordinance,

(1) for the fourth year of service and thereafter the rate of compensation shall be fixed at a rate which is the average of the maximum compensation paid firefighter classifications in regular service in the cities included in the certified report of the civil service commission. "Average wage" as used in this paragraph shall mean the sum of the maximum averages certified by the civil service commission divided by the number of firefighter classifications in cities in said certification;

(2) for the first, second and third year of service for firefighters shall be established in accordance with the general percentage differential between seniority steps found in the salary ranges included in the cities certified by the civil service commission for the same class;

(3) for said members of the fire department other than firefighters shall include the same percent of adjustment as that established by said ordinance for firefighters in the fourth year of service; and

(4) shall be set at the dollar amount nearest the fractional amount which may result from percentage adjustment specified in this section, half dollars being taken to the next higher dollar amount.

The expression "rates of compensation" as used in this section, in relation to said survey, is hereby declared to apply only to a basic amount of wages, with included range scales, and does not include such working benefits as might be set up by any other city by way of holidays, vacations, other permitted absences for any type whatsoever, overtime, night or split shift, or pay for specialized services within a classification or rank, or other premium pay differentials of any type whatsoever. The foregoing enumeration is not exclusive, but it is the intent of this

section that nothing other than a basic amount of wages, with included range scales, is to be included within the meaning of "rates of compensation."

Working benefits and premium pay differentials of any type shall be allowed or paid to members of the fire department referred to herein only as is otherwise provided in this charter.

For all purposes of the retirement system, the expression "rates of compensation," as used in Subsections (c) and (d) of this section shall mean "salary attached to the rank" as used in Section 169 of the charter of 1932, as amended and "compensation earnable" as used in Section 8.549.

The term "firefighters" as used in this section shall mean the persons employed, in the fire departments of said cities of 350,000 population or over or of the City and County of San Francisco, to perform substantially the duties being performed on the effective date of this section by drivers, stokers, tillermen, truckmen, or hosemen, in the San Francisco Fire Department.

The expression "members of the fire department" does not include members of the fire commission.

The absence of any officer or member of the fire department on military leave of absence, as defined by Section 8.361 of this charter shall be reckoned a part of such member's service under the city and county, for the purpose of computing years of service in gaining added compensation as provided in this charter.

On the recommendation of the chief of department, the commission may reward any officer or member of the department for heroic or meritorious conduct, the form or amount of said award to be discretionary with the fire commission, but not to exceed one month's salary in any one instance.

The rates of compensation for the ranks of captain, bureau of fire prevention and public safety, and lieutenant, bureau of fire investigation, shall be thirteen percent (13%) above the compensation established for the ranks of captain and lieutenant as provided for in this section. The rates of compensation for the ranks of inspector, bureau of fire prevention and public safety, and investigator, bureau of fire investigation, shall be ten percent (10%) above the compensation established for the rank of chief's operator as provided for in this section. The rate of compensation shall be set at the dollar amount nearest the fractional amount which may result from

percentage adjustment specified in this subsection, half dollars being taken to the next higher dollar amount.

(d) The rates of compensation fixed pursuant to the provisions of Subsection (a)(1), (2) and (3) and the rates of compensation fixed pursuant to the provisions of Subsection (c)(1), (2) and (3) shall be the same. Such rates shall not exceed the highest average rate of compensation fixed pursuant to Subsections (a)(1), (2) and (3) and (c)(1), (2) and (3) above, whether it be paid to police officers, patrol officers or firefighters; provided, further, that the minimum rate of compensation attached to the rank of sergeant in the police department shall be equal to the rate of compensation attached to the rank of lieutenant in the fire department.

(e) Not later than the 25th day of August the board of supervisors shall have the power and it shall be its duty, subject to the fiscal provisions of the charter but without reference or amendment to the annual budget, to amend the annual appropriation ordinance and the annual salary ordinance as necessary to include the provisions of paying the rates of compensation fixed by the board of supervisors as in this section provided for uniformed members of the police and fire departments for the then current fiscal year.

Notwithstanding any other charter provision, the rates of compensation for police officers and firefighters shall be annually further increased as follows:

(1) In the event that any city of 350,000 population or over in the State of California as defined in subsections (a) and (c) of this section has not finalized, fixed, or reached agreement as to the rates of compensation prior to the 25th day of August, the date for further and additional fixing of the rates of compensation and for further and additional amending of the annual appropriation ordinance and annual salary ordinance to provide for the paying of additional rates of compensation to police officers and firefighters shall extend to the 30th day of June of the following year.

(2) Should any city as defined in subsections (a) and (c) of this section finalize, fix or reach agreement as to the rates of compensation after the 25th day of August but prior to the 30th day of June of the following year, the board of supervisors shall have the power, and it shall be its duty, subject to the fiscal provisions of the charter, by ordinance, within 30



calendar days of said finalizing, fixing, or reaching agreement, further to fix the rates of compensation for the uniformed members of the police and fire departments and to further amend the annual appropriation ordinance and the annual salary ordinance to include provisions for paying the rates of compensation as so further fixed pursuant to subsections (a), (b) and (c) of this section, and said rate of compensation shall be effective retroactive to the effective date of the agreement or legislation designated in subsections (a) and (c), but in no event prior to July 1 of the current fiscal year.

(f) Not later than the first day of August of each year, the civil service commission shall determine and certify to the board of supervisors the percentage of increase or decrease in the cost of living during the 12-month period ending March 31st of that same year as shown by the Consumer Price Index, All Items San Francisco, and the percentage of increase or decrease in the cost of living during the same period as shown by the Consumer Price Index, All Items, in the cities included in the certified report of said commission. The Consumer Price Index referred to herein is defined as that certain index issued by the U. S. Bureau of Labor Statistics and published in the Monthly Labor Review or a successor publication. In the event the U. S. Bureau of Labor Statistics discontinues the compilation and publication of said indexes, the board of supervisors shall have the power, and it shall be its duty, to appoint a statistical fact finding committee to determine the same data pursuant to the methods theretofore used by the U. S. Bureau of Labor Statistics. The cost of living adjustments as hereinafter provided shall be based upon the percentage of such increases or decreases. The board of supervisors may, in addition to the rates of compensation as established herein, and at the same time said rates of compensation are established, increase said rates of compensation by an amount equal to the difference between the average cost of living increase of the cities included in the certified report of the civil service commission and the actual cost of living increase for San Francisco. In the event the board of supervisors elects not to grant such cost of living increase in any year in which any such increase might be granted, the board of supervisors shall, upon a written request filed with the clerk of the board of supervisors not later than the 10th day of

September of said year by representatives of the uniformed members of the police and fire departments, as designated by the police and fire commissions, respectively, submit the question of said cost of living increase to the qualified electors of the city and county at the next succeeding citywide election. In the event said cost of living increase is approved by a majority of the qualified electors voting thereon, said cost of living increase shall be effective as of the first day of the then current fiscal year.

(g) Notwithstanding any of the provisions contained in this section, no uniformed member of the police or fire department employed before July 1, 1976, whose compensation is fixed pursuant to the formula contained herein, shall suffer a salary reduction by the application of any new compensation schedules, and the rates for fiscal year 1975-76 shall continue until such time as the new schedules equal or exceed the current salary increment schedules, provided, however, that such time shall not be extended beyond June 30, 1982, and provided further that this prohibition against reduction of compensation for the designated employees shall not be deemed to supersede the provisions of Section 8.406 of this charter.

(h) Notwithstanding any of the provisions contained in this section, no uniformed member of the police or fire department, whose compensation is fixed pursuant to the formula contained herein, shall suffer a salary reduction by the application of the compensation schedules provided for herein. Provided, however, that this prohibition against reduction of compensation for the designated employees shall not be deemed to supersede the provisions of Section 8.406 of this charter.

(i) This amendment shall become effective immediately upon certification of election results and its provisions shall pertain to fixing rates of pay for police officers and firefighters during fiscal year 1986-87.

#### **A8.406 SALARY DEDUCTIONS**

Whenever, in the judgment of the mayor and the board of supervisors, extraordinary economic conditions actually exist due to unemployment, fire, earthquake, flood or other calamity, which adversely affect the life, health and welfare of the citizens of the city and county or of any considerable portion thereof,



the board of supervisors, by a three-fourths vote of all of its members, with the concurrence of the mayor, shall have power as follows, to-wit:

(a) To officially declare that a public emergency exists, and to fix the approximate anticipated time during which said emergency shall continue, provided that no such emergency shall be anticipated to continue beyond the end of the fiscal year during which the same is declared, unless such emergency be declared subsequent to the first day of January of said year, in which event the said emergency may be anticipated to continue until the end of the next succeeding fiscal year.

(b) To provide that while said emergency as declared shall continue to exist there shall be deducted from the gross salaries and compensations, exclusive of pension and retirement allowances, of each officer and employee of the City and County of San Francisco, including officers and employees of the board of education, not more than the respective amounts hereinafter set forth. Said deductions shall be made on the basis of the salary and compensation rate of said several officers and employees which were in effect during the calendar month immediately preceding the month during which said emergency was declared and not reduced by this section.

If said salary and compensation deductions are not reflected in the annual budget and appropriation ordinances, as set forth in Subsection (c) of this section, the amount of said deductions shall be used for the purpose of meeting or alleviating the emergency which has been declared, or to balance any deficiency existing in the general funds of the city arising by reason of the delinquency in the payment of taxes or other revenue as compared with the anticipated revenues over the same period. Provided that where salaries or compensations are paid out of bond funds, utility funds, or other trust funds, which are not provided from the revenues of the city, all deductions made shall revert to the respective funds from which said salaries or compensations are paid.

The maximum deductions from the salary or compensation of each officer or employee heretofore referred to shall be as follows, to-wit:

(1) From the salaries or compensation of officers or employees whose gross earnings exceed \$100 per month and do not exceed \$120 per month, three percent of the amount of the gross monthly earnings of each of said officers or employees.

(2) From the salaries or compensations of officers or employees whose gross earnings exceed the sum of \$120 per month and do not exceed the sum of \$150 per month, seven percent of the gross monthly earnings of each of said officers or employees.

(3) From the salaries or compensations of officers or employees whose gross earnings exceed the sum of \$150 per month, and do not exceed the sum of \$185 per month, 10 percent of the gross monthly earnings of each of said officers or employees.

(4) From the salaries or compensations of all officers or employees whose gross earnings exceed the sum of \$185 per month, and do not exceed the sum of \$275 per month, 12-1/2 percent of the gross monthly earnings of each of said officers or employees.

(5) From the salaries or compensations of all officers or employees whose gross earnings exceed the sum of \$275 per month, and do not exceed the sum of \$600 per month, 15 percent of the gross monthly earnings of said officers or employees.

(6) From the salaries or compensations of all officers or employees whose gross earnings exceed the sum of \$600 per month, and do not exceed the sum of \$834 per month, 18 percent of the gross monthly earnings of each of said officers or employees.

(7) From the salaries or compensations of all officers or employees whose gross earnings exceed the sum of \$834 per month, 20 percent of the gross monthly earnings of each of said officers or employees.

(8) Provided, however, that no more than 5-1/2 percent of the gross monthly earnings of per diem employees whose compensations are fixed on the basis of a five-day week shall be deducted from the salaries or earnings of any such employee.

Said deductions shall be made from said earnings or compensations in monthly or semi-monthly installments according to the time at which said salaries or compensations are paid; provided that where the earnings of any officer or employee are on an hourly or per diem basis deductions based on his total earnings for the month shall be deducted from the installment of said earnings paid for the last half of the month.

(c) Should any such emergency declared as herein provided be anticipated to continue into the next fiscal year following the one during which said emergency has been declared, the controller and the

mayor in preparing or submitting their respective annual budget estimates shall base and estimate the net salaries and compensations to be paid at amounts not to exceed the said salaries and compensations as reduced by the above-mentioned percentages on the above-mentioned salary and compensation rates, and the annual appropriation and salary ordinance shall fix said net salaries and compensation accordingly. When any emergency is declared after the annual budget is prepared or adopted, or after the annual appropriation or salary ordinances are enacted, and before the annual tax rate is fixed as provided by law, said budget and said appropriation and salary ordinances may be revised or reenacted, so that the deductions herein authorized to be made may be reflected in the amount of the tax levy.

(d) All of such deductions, whether made after the passing of the annual budget appropriation and salary ordinance or included therein, shall be deemed as temporary deductions from the salaries and compensations of said officers and employees, and shall be continued only during the anticipated period for which said emergency has been declared.

(e) In making the deductions herein provided for, the value of board, room and laundry or other maintenance furnished by the city and county to any officer or employee, when the same is made a part of his compensation by the civil service commission, shall be added to the monetary salary or compensation paid to said employee, and the amount of deductions from said salary or compensation shall be based on said monetary salary plus the value of said board, room and laundry or other maintenance, provided that no deduction shall be made for quarters furnished to any officer or member of the fire department.

(f) During the period that any emergency shall exist after being so determined as hereinbefore provided, the controller, with the approval of the mayor and the board of supervisors, may reallocate any unencumbered balance, or any part thereof, to the credit of any department or office exclusive of monies or appropriations made or required to be made to any bond, bond interest, bond redemption, pension, utility, or trust fund, so that the same shall be available to meet the necessities of said emergency, irrespective as to whether the amount allocated to said department or office is fixed by this charter or is the result of a tax provided by said charter to be levied for said department. Should the period during which said emergency is anticipated to exist extend beyond the

end of the fiscal year in which the same was declared to exist, the mayor, with the approval of the board of supervisors, may reduce the amount of any mandatory appropriation provided to be allocated to any office or department; or may reduce the amount of any tax provided by the charter to be levied for the support or maintenance of any department or office. Provided that no such deduction in appropriation, provided by this charter to be made to any department, or in the reallocation of funds, or reduction in the amount of said tax otherwise provided to be levied to produce funds for any department, shall be greater than is necessary to reflect the deductions in salaries provided in the section to be made by reason of said emergency.

The provisions of this section shall have precedence over conflicting provisions of this charter, but nothing herein contained shall adversely affect the rights of the officers and employees as set forth in Section 8.400 (h) of the charter, during the period when no public emergency exists. Contributions by the city and county and by members of the San Francisco City and County Employees' Retirement System to, and benefits, pension payments and allowances under said retirement system, shall be calculated on the basis of gross salaries and compensations of such members in the same manner and amounts as if no deductions from said gross salaries and compensations were made under this section.

Should any emergency be declared pursuant to the provisions of this section, which, in the judgment of the board of supervisors, will necessitate deductions from the salaries of the officers and employees of the city and county, over and above the amounts herein provided for, the board of supervisors by unanimous vote of all of its members, and with the approval of the mayor may authorize a further deduction from the salaries and compensations of any of said officers and employees by increasing the maximum deductions in this section provided for, up to and including an amount not to exceed 25 percent of said respective salaries or compensations as the same existed before any deduction by authority of this section.

#### **A8.409 DECLARATION OF POLICY**

It is hereby declared to be the policy of the city and county of San Francisco that strikes by city employees are not in the public interest and that, in

accordance with Government Code Section 3507(e), a method should be adopted for peacefully and equitably resolving disputes. It is the further purpose and policy of the city and county of San Francisco that the procedures herein adopted, except as otherwise provided herein, shall supersede and displace all other formulae, procedures and provisions relating to wages, hours, benefits and other terms and conditions of employment found in this charter, in the ordinances and resolutions of the city and county of San Francisco, or in the rules, regulations or actions of boards or commissions of the city and county of San Francisco.

If any officer or employee covered by this part engages in a strike as defined by section A8.346(a) of this charter against the City and County of San Francisco, said employee shall be dismissed from his or her employment pursuant to charter section A8.346.

In accordance with applicable state law, nothing herein shall be construed to restrict any legal city rights concerning direction of its work force, or consideration of the merits, necessity, or organization of any service or activity provided by the City. The City shall also have the right to determine the mission of its constituent departments, officers, boards and commissions; set standards of services to be offered to the public; and exercise control and discretion over the city's organization and operations. The City may also relieve city employees from duty due to lack of work or funds, and may determine the methods, means and personnel by which the city's operations are to be conducted.

However, the exercise of such rights does not preclude employees from utilizing the grievance procedure to process grievances regarding the practical consequences of any such actions on wages, hours, benefits or other terms and conditions of employment whenever memoranda of understanding providing a grievance procedure are in full force and effect.

It is the declared intent of the voters that the state statutes referenced in this part be those in effect on the effective date of this part. (Amended March 2004)

#### **A8.409-1 EMPLOYEES COVERED**

These Sections A8.409 through A8.409-6, inclusive, shall apply to all miscellaneous officers and employees except as set forth in Section A8.590-1 et seq. and including employees of San Francisco Unified School District and San Francisco Community

College District to the extent authorized by state law. The provisions of charter sections 8.400(h), 8.401-1, and 8.407 are hereby repealed and shall be of no further force and effect. Employee organizations representing employees in classifications covered by section A8.403 and A8.404 of this Charter may elect to include those classifications within the coverage of this part as a separate bargaining unit, provided however, that the election shall not become effective without the written approval of the Mayor and Board of Supervisors. The election shall be irrevocable and such employees shall not thereafter be subject to the provisions of section A8.403 and A8.404.

Employees in classifications not represented by a recognized employee organization shall be entitled to represent themselves with the city and county over wages, hours and other terms and conditions of employment to the extent required by state law and shall not be subject to the arbitration provisions of Section A8.409-4 of this charter. The Mayor annually shall propose all forms of compensation for unrepresented employees including salaries, hours, benefits, and other terms and conditions of employment subject to approval or disapproval of the board of supervisors. Consistent with other provisions of this charter, the civil service commission may adopt rules and procedures relating to said unrepresented employees.

Except as otherwise provided by this charter the Civil Service Commission shall set the wages and benefits of all elected officials of the City and County of San Francisco as follows: wages shall be frozen for fiscal year 1994-95 and 1995-96 at the rates in effect on June 30, 1994, thereafter wages and benefits may be adjusted on July 1, of each fiscal year to reflect upward change in the CPI as of the preceding January 1; however, wage increases may not exceed 5%. Benefits of elected officials may equal but may not exceed those benefits provided to any classification of miscellaneous officers and employees as of July 1 of each fiscal year.

In addition, subject to the approval or disapproval of the Board of Supervisors, the Mayor may create, for employees designated as management, a management compensation package that recognizes and provides incentives for outstanding managerial performance contributing to increased productivity and efficiency in the work force. In formulating such a package, the Mayor shall take into account data



developed in conjunction with the civil service commission regarding the terms of executive compensation in other public and private jurisdictions. (Amended March 2004)

#### **A8.409-2 INTERIM PROVISIONS**

Notwithstanding the provisions of section 8.407 of this charter, from January 3, 1992 through March 31, 1992, in return for acceptance of a wage freeze for fiscal year 1991-1992, all recognized employee organizations representing classifications electing to remain within the coverage of charter sections 8.401 and 8.407 may, on a one time only basis, elect to bargain for no more than two additional paid training or furlough days per year to be effective only in fiscal years 1992-93, 1993-94 and 1994-95, and a dental plan, in recognition of the wage freeze for 1991-92. Such bargaining shall not be subject to the impasse procedures provided herein or any other provision of the charter, ordinance, or state law.

#### **A8.409-3 OBLIGATION TO BARGAIN IN GOOD FAITH**

Notwithstanding any other ordinances, rules or regulations of the city and county of San Francisco and its departments, boards and commissions, the city and county of San Francisco, through its duly authorized representatives, and recognized employee organizations representing classifications of employees covered by this part shall have the mutual obligation to bargain in good faith on all matters within the scope of representation as defined by Government code section 3504, relating to the wages, hours, benefits and other terms and conditions of city and county employment, including the establishment of procedures for the resolution of grievances concerning the interpretation or application of any agreement, and including agreements to provide binding arbitration of discipline and discharge; provided, however that, except insofar as they affect compensation, those matters within the jurisdiction of the civil service commission which establish, implement and regulate the civil service merit system shall not be subject to bargaining under this part: the authority, purpose, definitions, administration and organization of the merit system and the civil service commission; policies, procedures and funding of the operations of the civil service commission and its staff; the

establishment and maintenance of a classification plan including the classification and reclassification of positions and the allocation and reallocation of positions to the various classifications; status rights; the establishment of standards, procedures and qualifications for employment, recruitment, application, examination, selection, certification and appointment; the establishment, administration and duration of eligible lists; probationary status and the administration of probationary periods, except duration; pre-employment and fitness for duty medical examinations except for the conditions under which referrals for fitness for duty examinations will be made, and the imposition of new requirements; the designation of positions as exempt, temporary, limited tenure, part-time, seasonal or permanent; resignation with satisfactory service and reappointment; exempt entry level appointment of the handicapped; approval of payrolls; and conflict of interest. As to these matters, the Civil Service Commission shall continue to be required to meet and confer pursuant to state law.

Unless and until agreement is reached through bargaining between authorized representatives of the city and county of San Francisco and authorized representatives of recognized employee organizations for the employee classifications covered by this part, or a determination is made through the procedure set forth in section A8.409-4 hereinafter provided, no existing wages, written terms or conditions of employment, fringe benefits, or long-standing past practices for said employees shall be altered, eliminated or changed except in cases of emergency. This paragraph shall be effective only until the approval of the first memorandum of understanding with a covered employee organization or six months from the effective date of this part whichever occurs sooner.

During the term of an MOU, disputes regarding changes in wages, hours, benefits and other terms and conditions of employment shall not be subject to the impasse procedures provided in this part, but may be subject to grievance arbitration.

No bargaining unit may be included in more than one memorandum of understanding with the city and county of San Francisco. Consistent with charter sections 3.100-2 and 3.103 and subject to the prior written approval of the Human Resources Director which shall not be unreasonably withheld, appointing officers shall have the authority to negotiate agreements with recognized employee representatives.



Appointing officers shall consult and coordinate such negotiations with the Human Resources Director. Such memoranda of understanding shall be restricted to non-economic items within the jurisdiction of the department appointing officer which do not conflict with a city-wide memorandum of understanding. Such memoranda of understanding shall come into full force and effect only upon approval by the mayor and thereafter by a majority vote of the board of supervisors or other appropriate governing body. Upon such approval, departmental memoranda of understanding shall be attached as appendices to the employee organization's city-wide memorandum of understanding as negotiated under this part. No memorandum of understanding negotiated pursuant to this paragraph during the term of a city-wide memorandum of understanding shall be subject to the arbitration provisions of this part until renegotiation of the employee organization's city-wide memorandum of understanding.

Agreements reached pursuant to this part by the authorized representatives for the city and county of San Francisco, on behalf of its departments, boards and commissions, and the authorized representatives of recognized employee organizations, once adopted by ordinance of the board of supervisors, shall be binding on the city and county of San Francisco, and on its departments, boards, commissions, officers and employees and on the recognized employee organizations and their successors, and all employees in classifications they represent. Except as specifically set forth in this part, said agreements shall supersede any and all other conflicting procedures, provisions and formulae contained in this charter, in the ordinances of the board of supervisors, or in the rules or regulations of the city and county of San Francisco, relating to wages, hours, or other terms and conditions of employment. (Amended March 2004)

#### **A8.409-4 IMPASSE RESOLUTION PROCEDURES**

(a) Subject to Section A8.409-4(g), disputes pertaining to wages, hours, benefits or other terms and conditions of employment which remain unresolved after good faith bargaining between the city and county of San Francisco, on behalf of its departments, boards and commissions, and a recognized employee organization representing classifications of employees covered under this part shall be

submitted to a three-member mediation/arbitration board ("the board") upon the declaration of an impasse either by the authorized representative of the city and county of San Francisco or by the authorized representative of the recognized employee organization involved in the dispute; provided, however, that the arbitration procedures set forth in this part shall not be available to any employee organization that engages in a strike unless the parties mutually agree to engage in arbitration under this section. Should any employee organization engage in a strike either during or after the completion of negotiations and impasse procedures, the arbitration procedure shall cease immediately and no further impasse resolution procedures shall be required.

(b) Not later than January 20 of any year in which bargaining on an MOU takes place, representatives designated by the city and county of San Francisco and representatives of the recognized employee organization involved in bargaining pursuant to this part shall each select and appoint one person to the board. The third member of the board shall be selected by agreement between the city and county of San Francisco and the recognized employee organization, and shall serve as the neutral chairperson of the board.

In the event that the city and county of San Francisco and the recognized employee organization involved in bargaining cannot agree upon the selection of the chairperson within ten (10) days after the selection of the city and county and employee organization members of the board, either party may then request the American Arbitration Association or California State Mediation Service to provide a list of the seven (7) persons who are qualified and experienced as labor interest arbitrators. If the city and county and the employee organization cannot agree within three (3) days after receipt of such list on one of the seven (7) persons to act as the chairperson, they shall randomly determine which party strikes first, and shall alternately strike names from the list of nominees until one name remains and that person shall then become the chairperson of the board.

(c) Any proceeding convened pursuant to this section shall be conducted in conformance with, subject to, and governed by Title 9 of Part 3 of the California Code of Civil Procedure. The board may hold public hearings, receive evidence from the parties and, at the request of either party, cause a

transcript of the proceedings to be prepared. The board, in the exercise of its discretion, may meet privately with the parties to mediate or mediate/arbitrate the dispute. The board may also adopt other procedures designed to encourage an agreement between the parties, expedite the arbitration hearing process, or reduce the cost of the arbitration process.

(d) In the event no agreement is reached prior to the conclusion of the arbitration hearings, the board shall direct each of the parties to submit, within such time limit as the board may establish, a last offer of settlement on each of the remaining issues in dispute. The board shall decide each issue by majority vote by selecting whichever last offer of settlement on that issue it finds by a preponderance of the evidence presented during the arbitration most nearly conforms to those factors traditionally taken into consideration in the determination of wages, hours, benefits and terms and conditions of public and private employment, including, but not limited to: changes in the average consumer price index for goods and services; the wages, hours, benefits and terms and conditions of employment of employees performing similar services; the wages, hours, benefits and terms and conditions of employment of other employees in the city and county of San Francisco; health and safety of employees; the financial resources of the city and county of San Francisco, including a joint report to be issued annually on the City's financial condition for the next three fiscal years from the Controller, the Mayor's budget analyst and the budget analyst for the board of supervisors; other demands on the city and county's resources including limitations on the amount and use of revenues and expenditures; revenue projections; the power to levy taxes and raise revenue by enhancements or other means; budgetary reserves; and the city's ability to meet the costs of the decision of the arbitration board. In addition, the board shall issue written findings on each and every one of the above factors as they may be applicable to each and every issue determined in the award. Compliance with the above provisions shall be mandatory.

(e) To be effective the beginning of the next succeeding fiscal year, an agreement shall be reached or the board shall reach a final decision no later than sixty days before the date the Mayor is required to submit a budget to the board of supervisors, except by mutual agreement of the parties. After reaching a

decision, the board shall serve by certified mail or by hand delivery a true copy of its decision to the parties. The decision and findings of the arbitration board shall not be publicly disclosed until ten (10) days after it is delivered to the parties. During that ten (10) day period the parties shall meet privately, attempt to resolve their differences, and by mutual agreement amend or modify the decision and findings of the arbitration board. At the conclusion of the ten (10) day period, which may be extended by mutual agreement between the parties, the decision and findings of the arbitration board, as it may be modified or amended by the parties, shall be publicly disclosed for a period of fourteen (14) days after which time the decision shall be final and binding. Except as otherwise provided by this part, the arbitration decision shall supersede any and all other relevant formulae, procedures and provisions of this charter relating to wages, hours, benefits and terms and conditions of employment, and it shall be final and binding on the parties to the dispute. However, the decision of the board may be judicially challenged by either party.

Thereafter, the city and county of San Francisco, its designated officers, employees and representatives and the recognized employee organization involved in the dispute shall take whatever action necessary to carry out and effectuate the final decision.

(f) The expenses of any proceedings convened pursuant to this part, including the fee for the services of the chairperson of the board, the costs of preparation of the transcript of the proceedings and other costs related to the conduct of the proceedings, as determined by the board, shall be borne equally by the parties. All other expenses which the parties may incur are to be borne by the party incurring such expenses.

(g) The impasse resolution procedures set forth in Section A8.409-4, or in any other provision of the charter, ordinance or state law shall not apply to any rule, policy, procedure, order or practice which relates or pertains to the purpose, goals or requirements of a consent decree, or which is necessary to ensure compliance with federal, state or local laws, ordinances or regulations. In the event the city acts on a matter it has determined relates to or pertains to a consent decree, or in the event the city acts to ensure compliance with federal, state, or local laws,

ordinances or regulations, and the affected employee organization disputes said determination, that determination or action shall not be subject to arbitration, but may be challenged in a court of competent jurisdiction.

(h) The impasse resolution procedures set forth in section A8.409-4, or in any other section of the charter, shall not apply to any proposal pertaining to the right to strike.

(i) Charter sections A8.590-1 through A8.590-7 shall remain in full force and effect; provided, however, that the wages and other economic benefits and compensation of all classifications of employees covered by these sections shall be frozen for fiscal year 1995-96 at the rates in effect on June 30, 1995, except that wages and other economic benefits and compensation of all classifications of Airport Police shall be frozen for the fiscal year following expiration of the Memorandum of Understanding covering those classifications in effect on the effective date of this amendment.

(j) Subject to the election provisions of section A8.409-1, Charter sections A8.403 and A8.404 shall remain in full force and effect; provided, however, that the wages and other economic benefits and compensation of all classifications of employees covered by section A8.404 shall be frozen for fiscal year 1995-96 at the rates in effect on June 30, 1995. (Amended March 2004)

#### **A8.409-5 RETIREMENT BENEFITS**

Notwithstanding any other provision of this part, retirement and death allowances shall continue to be set and adjusted pursuant to Chapter Five of this Article.

However, death benefits and survivor allowances, retirement allowances, adjustments to retirement allowances and adjustments to continuant allowances payable by the retirement system and based on fiscal year 1991-1992 wages and salaries covered by charter section 8.407, shall be calculated for all employees covered by charter sections 8.401 and 8.407 based on the rates certified by the civil service commission to the board of supervisors as though the 1991-1992 salary standardization ordinance vetoed by the mayor had become law. No such payment shall exceed the

maximum amount permitted by Section 415 of the Internal Revenue Code of 1986, as amended from time to time, or the maximum amount which would still permit the retirement system to preserve its tax-qualified status under Section 401 of the Internal Revenue Code of 1986, as amended from time to time.

#### **A8.409-6 EMPLOYEE RELATIONS RULES**

Within sixty (60) days of adoption of this amendment, the Mayor shall appoint a panel which after consultation with all parties of interest, shall review the current employee relations ordinance and make recommendations to the Board of Supervisors for such changes as may be necessary to effectuate the purposes of this part.

Such changes shall include the creation of an employee relations board. The duties of the employee relations board shall include hearing and making determinations concerning unfair labor practice charges, disputes regarding representation matters, and unit determinations.

#### **A8.410 REIMBURSEMENT OF EXPENSES**

Except in the discharge of routine duties, traveling and payment of expenses therefor shall be authorized only by ordinance; provided, that allowances therefor shall not exceed cost of transportation, including Pullman charges, if any, and a reasonable amount per diem for necessary expenses, which per diem shall be fixed annually by ordinance and shall be applicable to all officers and employees.

#### **A8.411 PAYMENT FOR REPAIR OR REPLACEMENT OF EQUIPMENT**

Notwithstanding the provisions of Sections 8.400(a) and (c) through (g), 8.401, 8.402, 8.403, 8.405(a) and 8.405(c), or any other provision of this charter, the board of supervisors may provide by ordinance for the payment of the costs of replacing or repairing equipment, property, or prostheses of any uniformed officer or employee of the police department, fire department, sheriff's office or municipal railway, such as, but not confined to eyeglasses, hearing aids, dentures, watches, or articles of clothing necessarily worn or carried by such employee when any such items are damaged in the



line of duty without fault of the employee. If the items are damaged beyond repair, the actual value of such items may be paid. The value of such items shall be determined as of the time of the damage thereto.

The board by a three-fourths vote of all of its members may make similar provision in relation to any other officer or employee where it finds that the damage or loss was occasioned by unusual circumstances or the occurrence of an extraordinary event.

The board is authorized to enact any and all ordinances necessary to carry out the provisions of this section.

#### **A8.420 ESTABLISHMENT OF AND MEMBERSHIP IN HEALTH SERVICE SYSTEM**

A health service system is hereby established. Said system shall be administered by the human resources department subject to the approval of the health service board. The members of the system shall consist of all permanent employees, which shall include officers of the city and county, of the San Francisco Unified School District, and of the Parking Authority of the City and County of San Francisco and such other employees as may be determined by ordinance, subject to such conditions and qualifications as the board of supervisors may impose, and such employees as may be determined by collective bargaining agreement. Any employee who adheres to the faith or teachings of any recognized religious sect, denomination or organization and, in accordance with its creed, tenets or principles, depends for healing upon prayers in the practice of religion shall be exempt from the system upon filing annually with the human resources department an affidavit stating such adherence and dependence and disclaiming any benefits under the system. The human resources department shall have the power to exempt any person whose compensation exceeds the amount deemed sufficient for self coverage and any person who otherwise has provided for adequate medical care. Any claim or request for exemption denied by the human resources department may be appealed to the health services board.

#### **A8.421 ADOPTION OF PLANS FOR RESIDENTS.**

Subject to the requirements of state law and the budgetary and fiscal provisions of the Charter, the Health Service Board is authorized by a two-thirds vote of the entire membership of the Health Service Board to adopt a plan or plans or make other provision for health or dental benefits for residents of the City and County of San Francisco. Such plan or plans shall not become effective until approved by an ordinance of the Board of Supervisors adopted by three-fourths of its members. Residents shall not by virtue of enrolling in such plan or plans become members of the Health Service System. The Health Service System Fund shall not be used to provide any benefits under this section. The Health Service Board shall adopt rules and regulations to administer this section.

The determinations made under this section, including but not limited to whether to adopt a plan or plans, what benefits to offer, determination of eligibility, and the fixing and allocation of the cost of any plan or plans, are within the sole discretion of the City and County and its officials. (Amended November 2004)

#### **A8.422 ADOPTION OF PLANS FOR MEMBERS**

The board shall have power and it shall be its duty by a two-thirds vote of the entire membership of the health service board to adopt a plan or plans for rendering medical care to members of the system, or for the indemnification of the cost of said care, or for obtaining and carrying insurance against such costs or for such care.

Such plan or plans as may be adopted, shall not become effective until approved by ordinance of the board of supervisors, adopted by three-fourths of its members.

The board of supervisors shall secure an actuarial report of the costs and effect of any proposed change in the benefits of the health service system or rates of contribution before enacting an ordinance or before voting to submit any proposed charter amendment providing for such change. (Amended November 2004)



**A8.423 REVISION OF SCHEDULES AND COMPENSATION**

In January of each year, at a public hearing, the health service board shall review and determine the adequacy of medical care provided for members of the system and the adequacy of fee schedules and the compensation paid for all services rendered and it may make such revisions therein as it deems equitable but such revisions shall not become effective until approved by ordinance of the board of supervisors adopted by three-fourths of its members.

Commencing in 1973, the health service board shall, prior to the second Monday in January in each year, conduct a survey of the 10 counties in the State of California, other than the City and County of San Francisco, having the largest populations to determine the average contribution made by each such county toward the providing of health care plans, exclusive of dental care, for each employee of such county. The Health Service Board may promulgate rules and regulations for the survey to allow for unavoidable gaps in survey data and to insure a consistent methodology from year to year. In accordance with said survey, the health service board shall determine the average contribution made with respect to each employee by said 10 counties toward the health care plans provided for their employees and on or before the second Monday in January of each year, the health service board shall certify to the board of supervisors the amount of such average contribution. For the purposes of Section 8.428, the amount of such average contribution shall be "the average contribution."

The health service board shall have the responsibility to obtain and disseminate information to its members with regard to plan benefits and costs thereof. All expenses in connection with obtaining and disseminating said information and the investment of such fund or funds as may be established, including travel and transportation costs, shall be borne by the system from reserves in the health service fund but only upon adoption of a resolution by the health service board approving such expenses. (Amended November 2004)

**A8.424 SPECIFICITY REQUIRED**

Each plan for medical care shall make detailed and specific provision for the benefits to be provided thereunder and for the rates of contribution required to support the plan.

**A8.425 PERSONS COVERED**

Each plan may make provision for the participation in the benefits of the system by the dependents of members, retired city and county employees, temporary city and county employees, such other dependents of deceased and retired city and county employees as the board of supervisors may authorize by ordinance, teachers and other employees of the San Francisco Unified School District retired under the San Francisco City and County Employees' Retirement System and resigned employees of the city and county and resigned teachers and employees of the school district whose resignations occur after June 15, 1955, and within 30 days immediately prior to the date on which, but for their resignations, they would have become retired members of the said retirement system, on whose relinquishment of retirement allowances as permitted by the charter occurs after such date and resigned employees of the San Francisco Unified School District not otherwise included. A resigned employee or teacher is one whose employment has terminated other than by retirement, discharge or death or who has relinquished retirement allowances. The purpose of empowering the health service board to make provision for the participation in the benefits of the system to the aforementioned resigned teachers and employees of the San Francisco Unified School District is to enable them, subject to the health service board's exercise of its power, to participate in the benefits of the system after transferring to the State Teachers' Retirement System from the San Francisco City and County Employees' Retirement System. The purpose of empowering the health service board to make provision for participation in the benefits of the system by the aforementioned resigned employees of the city and county and other resigned employees of San Francisco Unified School District is to permit the health service board to have power to treat them the same as it treats resigned teachers and employees of the San Francisco Unified School District.

As used in this section, and for the purpose of this section, the terms “city and county employees” and “employees of the city and county” shall include officers and employees of the Parking Authority of the City and County of San Francisco.

In addition to “the average contributions” in Subsection (b) of Section A8.428, the board of supervisors may provide by ordinance for additional funds from the city and county to pay the full cost of any plan for medical benefits adopted under Sections A8.422 or A8.423 for current members of the board of supervisors. The board of supervisors may also provide by ordinance for the continuation in any plan by former supervisors who agree to and do pay the full cost of such benefit. (Amended March 2000)

#### **A8.426 RIGHT OF SELECTION**

No member of the health service system shall be required to accept the services or medical supplies of any physician (physician includes physicians and surgeons, optometrists, dentists, chiroprodists and osteopathic and chiropractic practitioners licensed by California State Law and within the scope of their practice as defined by California State Law), person licensed to treat human diseases without the use of drugs, nurse, pharmacist or hospital selected by the health service board, but, subject to rules and regulations of that board, every member shall have the right to select, of his own choice, any duly licensed physician, as defined herein, person licensed to treat human diseases without the use of drugs, nurse, pharmacist, hospital or other agency of medical care as herein defined, who or which will render the required services pursuant to said rules and regulations, and the health service board shall make provision for the exercise of such choice; and is hereby expressly prohibited from entering into any exclusive contract for the rendering of said services.

Any duly licensed physician, as defined herein, person licensed to treat human diseases without the use of drugs, nurse, pharmacist, hospital or other agency of medical care shall have the right to furnish such services or medical supplies at uniform rates of compensation to be fixed by the health service board.

#### **A8.427 EFFECT OF OTHER CHARTER PROVISIONS**

Except as otherwise specifically provided herein, all provisions of the charter shall be fully applicable to the health service board, the health service system and its administrator, medical director and employees in the same manner that they apply to other boards, commissions, and departments of the city and county. (Amended November 2004)

#### **A8.428 HEALTH SERVICE SYSTEM TRUST FUND.**

There is hereby created a health service system trust fund. The costs of the health service system shall be borne by the members of the system and retired persons, the City and County of San Francisco because of its members and retired persons and because of the members and retired persons of the Parking Authority of the City and County of San Francisco, the San Francisco Unified School District because of its members and retired persons and the San Francisco Community College District because of its members and retired persons. A retired person as used in this section means a former member of the health service system retired under the San Francisco City and County Employees' Retirement System, and the surviving spouse or surviving domestic partner of an active employee and the surviving spouse or surviving domestic partner of a retired employee, provided that the surviving spouse or surviving domestic partner and the active or retired employee have been married or registered as domestic partners for a period of at least one year prior to the death of the active or retired employee.

The city and county, the school district and the community college district shall each contribute to the health service fund amounts sufficient for the following purposes, and subject to the following limitations:

(a) All funds necessary to efficiently administer the health service system.

(b) The city and county, the school district and the community college district shall contribute to the health service system fund with respect to each of their members an amount equal to “the average contribution,” as certified by the health service board in accordance with the provisions of Section A8.423.

(c) Monthly contributions required from retired persons and the surviving spouses and surviving domestic partners of active employees and retired persons participating in the system shall be equal to the monthly contributions required from members in the system for health coverage—excluding health coverage or subsidies for health coverage paid for active employees as a result of collective bargaining, with the following modifications:

(1) the total contributions required from retired persons who are also covered under Medicare shall be reduced by an amount equal to the amount contributed monthly by such persons to Medicare;

(2) because the monthly cost of health coverage for retired persons may be higher than the monthly cost of health coverage for active employees, the city and county, the school district and the community college district shall contribute funds sufficient to defray the difference in cost to the system in providing the same health coverage to retired persons and the surviving spouses and surviving domestic partners of active employees and retired persons as is provided for active employee members excluding health coverage or subsidies for health coverage paid for active employees as a result of collective bargaining;

(3) after application of Section (c) and subsections (c)(1) and (c)(2), the city and county, the school district and the community college district shall contribute 50% of retired persons' remaining monthly contributions.

(d) The city and county, the San Francisco Unified School District and the San Francisco Community College District shall contribute to the health service system fund 50% of the monthly contributions required for the first dependent of retired persons in the system. Except as hereinbefore set forth, the city and county, the San Francisco Unified School District and the San Francisco Community College District shall not contribute to the health service system fund any sums on account of participation in the benefits of the system by members' dependents, except surviving spouses and surviving domestic partners, retired persons' dependents, except surviving spouses and surviving domestic partners, persons who retired and elected not to receive benefits from San Francisco City and County Employees' Retirement System; resigned

employees and teachers defined in Section A8.425, and any employee whose compensation is fixed in accordance with Sections A8.401, A8.403, or A8.404 of this charter and whose compensation therein includes an additional amount for health and welfare benefits or whose health service costs are reimbursed through any fund established for said purpose by ordinance of the board of supervisors.

It shall be the duty of the board of supervisors, the board of education and the governing board of the community college district annually to appropriate to the health service system fund such amounts as are necessary to cover the respective obligations of the city and county, the San Francisco Unified School District and the San Francisco Community College District hereby imposed. Contributions to the health service system fund of the city and county, of the school district and of the community college district shall be charged against the general fund or the school, utility, bond or other special fund concerned.

The amendments of this section contained in the proposition therefor submitted to the electorate on November 7, 2000 shall be effective July 1, 2001. (Amended November 1984; November 2000; November 2004)

#### **A8.429 CONTRIBUTIONS TO FUND**

The health service board shall determine and certify to the controller the amount to be paid monthly by the members of the system to the health service system fund for the purposes of the system hereby created. The controller shall deduct said sums from the compensation of the members and shall deposit the same with the treasurer of the city and county to the credit of the health service system fund.

Such deductions shall not be deemed to be a reduction of compensation under any provision of this charter.

The health service board shall have control of the administration and investment of the health service system fund, provided that all investments shall be of the character legal for insurance companies in California. Disbursements from the fund shall be made only upon audit by the controller and the controller shall have and exercise the accounting and auditing powers over the health service system fund which are vested in him by this charter with respect to all other municipal boards, officers and commissions.



**A8.430 "MEDICAL CARE" DEFINED**

The term "medical care" shall be defined by the health service board. All acts performed and services rendered under the provisions of this section shall be performed in accordance with the provisions as to professional conduct prescribed by the statutes of the State of California regulating such professional conduct and services.

**A8.431 LIMITATION OF CLAIMS BY MEMBERS**

Except as herein provided, members of the system shall have and possess no claim or recourse against any of the funds of the municipality by virtue of the adoption or operation of any plan for rendering medical care, indemnifying costs of said care or carrying insurance against such costs, but except as herein provided, the claim and recourse of any such member shall be limited solely to the funds of the system. All expenses of the system shall be paid exclusively from the health service system fund, and, except as herein provided, the city and county and the San Francisco Unified School District shall not appropriate or contribute funds in any manner for the purposes of the system hereby established and provided.

**A8.432 TRANSITION**

The board of supervisors is authorized to enact by a vote of three-fourths of its members, any and all ordinances necessary to carry out the provisions of Sections 8.420 to and including 8.432.

Any surplus or deficit existing in the health service fund on February 5, 1958, shall belong to or be the obligation of members, as the case may be, and the city and county and the San Francisco Unified School District shall neither receive payment nor credit nor shall it contribute to such fund on account of medical care rendered prior to such date.

**A8.440 ANNUAL VACATIONS OF EMPLOYEES**

(a) Every person employed in the city and county service shall be allowed a vacation with pay annually, as long as he continues in his employment, as follows:

(1) After one year's continuous service, 10 working days.

(2) After five years' continuous service, 15 working days.

(3) After 15 years' continuous service, 20 working days.

(b) Employees may elect not to take their entire vacation in any one year and in such event may accumulate the days allowable and not taken for use at some future time, provided, however, that no employee may accumulate unused vacation allowance in excess of 30 working days regardless of length of service.

(c) In computing vacation pay, no employee shall be considered to work more than five days each week. Vacation pay for employees working less than a five-day week shall be computed proportionately.

(d) If a holiday occurs during such employee's vacation, and the employee would as a matter of law have been entitled to said day as a regular day off, such holiday shall not be considered a day of vacation chargeable to the employee's vacation allowance.

(e) The time when vacations are to be taken shall be at the convenience of the principal executive, with due regard for seniority.

(f) An employee with one year or more of service who ceases to be employed by the city and county and who has neither received nor waived his current annual vacation allowance shall receive a pro-rata payment for all service performed since January 1 of the calendar year in which he ceases to be employed, together with an amount equivalent to any accumulated vacation allowances due him.

(g) The board of supervisors shall enact any and all ordinances necessary to administer, interpret and regulate the provisions of Subsections (a) through (f) of this section.

(h) Every employee of the City and County of San Francisco whose rate of compensation is fixed pursuant to the provisions of Sections 8.403 and 8.404 of this charter shall be entitled to receive an annual vacation at the time, with the pay and of the duration specified in this section and no section of the charter nor any provision of any collective bargaining agreement nor any street railway or bus wage schedule shall be construed in any manner or for any



purpose to increase, reduce or otherwise affect the time or duration of, or pay for, vacations provided by this section nor shall any employee be deemed to have any vacation rights other than or in excess of the vacation rights specified in this section.

(i) The vacation rights granted by this section, or contained in any collective bargaining agreements, or in any street railway or bus wage schedules, as any of said terms are referred to in Sections 8.403 and 8.404 of this charter, shall in no way increase, reduce or otherwise affect or be deemed to affect the wage or pay rate or schedule determinations made pursuant to the provisions of said Sections 8.403 and 8.404.

#### **A8.441 AUTHORIZATION TO TRANSFER VACATION CREDITS**

(a) Employees of the City and County of San Francisco may transfer their vested vacation allowance credits to other employees of the City and County of San Francisco who have been determined to be catastrophically ill by the employee's head of department, in accord with the definition of catastrophic illness to be provided by the Health Commission, and who have exhausted their vacation allowance, sick leave and compensatory time off, provided that such transfer may be made only in compliance with the terms and conditions established by the board of supervisors.

By ordinance, the Board of Supervisors may extend such vacation credit transfer rights to City employees for use as family leave to care for catastrophically-ill spouses, domestic partners or other dependents as defined in the Internal Revenue Code (26 U.S.C. sec. 152), as amended from time to time.

(b) The board of supervisors is hereby empowered to enact any and all ordinances necessary to administer, interpret and regulate the provisions of this section. (Amended November 1999)

#### **A8.450 MUNICIPAL RAILWAY**

Persons employed as platform men or bus operators in the operating department of the municipal railway system shall be subject to the following conditions of employment: The basic hours of labor shall be eight hours, to be completed within 10 consecutive hours, and there shall be two days off, consecutive where practicable, in each week. All labor performed in excess of eight hours in any one day, or after a spread of 10 consecutive hours in any one day, or five days in any one week, shall be paid for at the rate of time and one-half.

Conductors and motormen may be assigned to duty as bus operators and while assigned to such duty they shall receive the compensation fixed for such service. Such assignment shall be governed by seniority of service, subject to a qualifying test by the railroad management as to competency and to state laws as to qualifications and licensing.

#### **A8.451 POLICE DEPARTMENT**

(a) The word "member" or "members" as used in this section shall mean the members in the police department set forth in Section 3.531 of this charter.

(b) The basic week of service for each member shall be 40 hours and the annual compensation set forth in Section 3.531 of this charter shall be based upon said basic week of service.

(c) Each member shall be entitled to at least two days off during each week, except as hereinafter provided.

(d) Whenever in the judgment of the chief of police public interest or necessity requires the services of any member to serve in excess of the basic week of service during any week, the chief of police may permit said service, and said member shall be compensated therefor or shall receive equivalent time credited to him in lieu thereof in accordance with this subsection. For service performed in excess of the basic week, member shall, as requested by the member, be compensated on the basis of time and

*[Section A8.451 continues on page 33.]*

*[Section A8.451 continues on page 33.]*

one-half in accordance with the ratio which said excess service bears to the basic week of service and the annual compensation provided therefor in Section 3.531 or in lieu thereof equivalent time off duty with pay at the rate of time and one-half.

(e) Nothing contained in this section shall be deemed to interfere with a vacation, as provided for in Section 8.440 of this charter, or the normal days off per week; provided, however, that when in the judgment of the chief of police public interest or necessity requires the services of any member to serve on his vacation, or part thereof, or normal days off, the chief of police may permit said member to serve during said vacation, or part thereof, or normal days off and he shall receive additional compensation for the period so served. Said additional compensation shall be computed on the basis of time and one-half in accordance with the ratio which said extra service performed bears to the basic week of service and the annual compensation provided therefor in Section 3.351.

(f) Nothing in this section shall abridge or limit in any way the provisions of Section 301, Part 1, of the San Francisco Municipal Code, approving Rule 32 of the civil service commission, insofar as sick leave and disability leaves for members are concerned.

(g) Whenever in the judgment of the police commission the efficient performance of police duty requires that one or more members of the police department should report for roll call, orders, and assignment, prior to going on duty, the said commission may designate a period not to exceed 15 minutes in any one day for said reporting, and the said periods of 15 minutes need not be compensated for in money or in time off with pay.

(h) Notwithstanding the provisions of any of the foregoing subsections, the members of the police department shall be entitled to the days declared to be holidays for employees whose compensations are fixed on a monthly basis in the schedules of compensations adopted by the board of supervisors pursuant to the provisions of Section 8.401 of the charter as additional days off with pay. Members shall be compensated on the basis of time and one-half as herein computed or shall be granted equivalent time off duty with pay at the rate of time and one-half as requested by the member.

(i) The provisions of this section changing compensation for service in excess of the basic week of service from straight time compensation and equivalent time off duty with pay to time and one-half for compensation and for time off duty with pay shall be effective on and after July 1, 1983.

(j) Any member who actually performs services between the hours of 5:00 p.m. and 7:00 a.m. shall be entitled to an additional 6.25 percent of the compensation otherwise payable for base pay therefor for all such hours worked; provided, however, that such additional compensation shall not be included for purposes of retirement benefit calculation or contributions provided elsewhere in this charter.

The provisions of this subsection shall become effective in the manner provided by law, but in no event prior to July 1, 1984.

#### **A8.452 FIRE DEPARTMENT**

The chief of department shall recommend and the fire commission shall provide by rule for work schedules or tours of duty for the officers and members occupying the several ranks of the fire department; provided, however, that the normal work week determined on an annual basis for such officers and members shall not exceed 48.7 hours. All tours of duty established for officers and members assigned to the fire fighting companies and fire fighting units excepting the arson investigation unit, shall start at eight o'clock A.M. No such officer or member shall be required to work more than twenty-four consecutive hours except in a case of conflagration, disaster, or sudden and unexpected emergency of a temporary nature requiring the services of more than the available on-duty officers and members of the uniformed force of the department. Officers and members may exchange watches with permission of the chief of department and time worked on such exchange of watches shall not be construed as time in violation of the limitation of 48.7 hours in any normal work week nor 24 consecutive hours. Each such officer and each such member shall be entitled to at least one (1) day off duty during each week.

When, in the judgment of the chief of department, it is in the public interest that any such officer or member shall work on his day off and said officer or member consents to so work, he may at the

direction of the chief of department work on said day off, and in addition to the regular compensation provided for said officer or member as set forth in the Charter, said officer or member shall, as requested by the officer or member, be entitled to be compensated at the rate of time and one-half his regular rate of pay as provided for herein for said extra time served, or he shall be allowed the equivalent time off at the rate of time and one-half.

In any computation in the administration of the San Francisco City and County Employees' Retirement System in which the compensation, as defined in any provisions relating to the retirement system, is a factor, compensation for overtime provided for in this section shall be excluded, and no such overtime compensation shall be deemed as compensation for any purpose relating to such retirement provisions.

Officers and members of the uniformed force shall be entitled to the days declared to be holidays for employees whose compensation are fixed on a monthly basis in the schedule of compensation adopted by the board of supervisors, pursuant to the provisions of Section 8.401 of the charter, as additional days off with pay. Officers or members shall be compensated for said days on the basis of time and one-half as herein computed or shall be granted equivalent time off duty with pay at the rate of time and one-half, as requested by the officer or member.

For payroll purposes, that portion of each tour of duty which falls within each calendar day shall constitute a single tour of duty. The rate of compensation or equivalent time off as provided for in this section, shall be calculated by dividing the annual rates of pay for each fiscal year by two-thirds (2/3) number of single tours of duty as scheduled for the several ranks in the fire fighting companies in said fiscal year.

#### **A8.500 RETIREMENT SYSTEM FOR OFFICERS AND EMPLOYEES**

In order to continue in force provisions already existing for retirement and death benefits for officers and employees of the city and county, the San Francisco City and County Employees' Retirement System, hereinafter referred to as the retirement system or the system, is hereby continued. The enactment of Sections 3.670, 3.672 and Sections 8.500 to 8.581, inclusive, of this charter is not intended to,

and shall not in any way, alter or modify the rights, benefits, or obligations of any member or beneficiary of the retirement system or of the city and county with respect to that system as they exist at the time this charter becomes effective.

Ordinance provisions already existing with respect to the retirement system shall continue in force until amended or revoked by the board of supervisors as provided in this section. The board of supervisors is hereby empowered to enact, by a vote of three-fourths of its members, any and all ordinances necessary to carry into effect the provisions of Sections 3.670, 3.672 and Sections 8.500 through 8.588-15, of this charter; provided that the board of supervisors shall secure, through the retirement board, an actuarial report of the cost and effect of any proposed change in the benefits under the retirement system, before enacting an ordinance or before voting to submit any proposed charter amendment providing for such change.

Subject to the vested rights rule, the board of supervisors is further empowered to enact, by a vote of three-fourths of its members, ordinances to conform the provisions of the retirement system to any changes in the tax laws of the United States to the extent necessary to maintain the qualified tax status of the retirement system provided that the board of supervisors shall first secure, from the retirement board, an actuarial report of the cost and effect of any such change and the recommendation from the retirement board that such an ordinance is necessary.

The board of supervisors is further empowered to enact, by a vote of three-fourths of its members, ordinances to allow Internal Revenue Code section 414(h)(2) tax treatment of members' contributions to the retirement system provided that the board of supervisors shall first secure from the retirement board an actuarial report which certifies that such ordinances will not increase costs, other than administrative costs, for the city and county.

#### **A8.500-1 RECIPROCAL PENSION BENEFITS WITHIN THE RETIREMENT SYSTEM AND WITH OTHER PUBLIC PENSION PLANS**

Subject to the provisions of Section 8.500, the board of supervisors shall have the power to enact ordinances to establish reciprocal agreements with the Public Employees' Retirement System and other public agencies maintaining independent retirement



systems for the purpose of extending reciprocal benefits to members of such systems as provided by state law. The board of supervisors and the retirement board shall have the power to perform all acts necessary to carry out the terms and purposes of such agreements.

Subject to the provisions of Section 8.500, the board of supervisors is further empowered to enact ordinances necessary to extend reciprocal rights to members who transfer between retirement plans established by this Charter provided that service under any plan for miscellaneous members shall be used for qualification purposes only and not to calculate benefits under any retirement plan for members of the police or fire departments. With the exception of those members who transferred pursuant to Charter Sections 8.559-14 and 8.585-14, no ordinance enacted under this section shall extend reciprocal rights to any member who transferred from Charter section 8.559 or 8.585 to Charter section 8.509, 8.584, 8.586 or 8.588, before April 1, 1993. No ordinance enacted under this section shall extend reciprocal rights to any person who terminated his or her membership in the retirement system or retired before April 1, 1993. Subject to the above, reciprocal benefits under this paragraph shall be consistent with interpretations that have been made relative to the reciprocal benefit provisions of the Public Employees' Retirement System and 1937 County Employees' Retirement Act which this paragraph is intended to implement. The reciprocal benefits under this section will be limited by Section 415 of the Internal Revenue Code of 1986, as amended from time to time, and no reciprocal benefits will be effective if they have an adverse impact on the tax qualified status of the retirement system under Section 401 of the Internal Revenue Code of 1986, as amended from time to time. (Amended November 1999; November 2002)

#### **A8.500-2 DOMESTIC PARTNER QUALIFIED SURVIVOR BENEFITS**

With respect to the retirement system, domestic partnerships shall be treated exactly the same as marriages, domestic partners shall be treated exactly the same as spouses, termination of a domestic partnership shall be treated exactly the same as a dissolution of marriage and qualified surviving

domestic partners shall be treated exactly the same as qualified surviving spouses, respectively.

(a) As used in the retirement plans established by this Charter, the phrase "surviving wife" shall also mean and include a "surviving spouse." As used in these sections, the phrases "surviving wife" and "surviving spouse" shall also mean and include a surviving domestic partner, provided that:

- (1) there is no surviving spouse, and
- (2) the member has designated his or her domestic partner as beneficiary with the retirement system, and

- (3) the domestic partnership is established or recognized according to those provisions of Chapter 62 of the San Francisco Administrative Code, as amended from time to time. Domestic partners who have formed their domestic partnership only by notarization of a declaration of Domestic Partnership as provided in Chapter 62 of the San Francisco Administrative Code shall not be recognized or treated as a domestic partnership for purposes under the retirement system unless and until the domestic partnership is registered or certified. A certificate of such domestic partnership, civil union, or similar legal relationship issued by another jurisdiction in a form that is equivalent to the records that the retirement system relies upon to verify marriages shall constitute sufficient proof of such legal relationship.

(b) Beginning March 5, 2002, the requirement of filing a Certificate of Domestic Partnership with the Retirement System shall not apply to members who were retired on or before November 8, 1995 and who had filed a signed Declaration of Domestic Partnership with the County Clerk at least one full year prior to the effective date of his or her retirement; and provided further that, as to any such member who was retired on or before November 8, 1995, no adjustment to a retirement allowance and no payments to a qualified surviving domestic partner shall begin before the effective date of this amendment or before the first day of the month in which an application is made to the Retirement System, which ever occurs later.

(c) A monthly allowance equal to what would other-wise be payable to a surviving spouse shall be paid to the said surviving domestic partner, until he or she dies, marries or establishes a new domestic partnership. Establishment of a domestic partnership

by a surviving spouse shall be treated exactly the same as a remarriage for retirement purposes.

(d) Notwithstanding subsection (c), no additional continuation allowance shall be paid after March 2, 2004 to a surviving domestic partner who is receiving a continuation allowance as the surviving spouse of another member on or before March 2, 2004.

(e) No continuation allowance shall be payable under the provisions of this section approved by the electorate on March 2, 2004 to the survivor of any member or retired member who died on or before March 1, 2004. Any retirement allowance payable to a person who becomes a qualified surviving domestic partner pursuant to the provisions of this section approved by the electorate on March 2, 2004, shall not begin before April 15, 2004.

(f) The domestic partner benefits under this section will be limited by Section 415 of the Internal Revenue Code of 1986, as amended from time to time. No domestic partner benefits will be effective if they have an adverse impact on the tax qualified status of the retirement system under Section 401 of the Internal Revenue Code of 1986, as amended from time to time. (Amended March 2002; November 2002; March 2004)

#### **A8.502 RETIREMENT OF ELECTIVE OFFICERS**

Elective officers, including members of the Board of Supervisors in office on and after July 1, 2000, but excepting members of all other boards and commissions and any elective officers who are members of the Public Employees' Retirement System, shall be members of the San Francisco City and County Employees' Retirement System under the miscellaneous plan in effect on the date such officer assumes office. Time during which said members have rendered service as elective officers shall be included under Subsection (g) of Section A8.509, Section A8.584-7 or the miscellaneous plan in effect on the date such officer assumes office, in addition to other time now so included. Contributions required to provide benefits based on service rendered as an elective officer prior to the effective date of membership in the retirement system, shall be paid to the retirement system in a manner consistent with contributions required of miscellaneous members for

temporary service as provided in this charter and the administrative code. (Amended March 2000)

#### **A8.503 RETIREMENT—COURT EMPLOYEES AND ATTACHES**

Employees and attaches of the superior or municipal court, including persons performing duties performed under the titles of commissioners, phonographic reporters who are paid compensation on a monthly or per diem basis by the city and county, secretaries, stenographers, investigators, messengers and other employees of the superior and municipal courts, in and for the City and County of San Francisco, shall be members of the San Francisco City and County Employees' Retirement System under Section 8.509, and shall be subject to all of the conditions applying to other members under that section, except as herein otherwise provided.

Service rendered to the said superior or municipal court in and for the city and county, other than as a phonographic reporter, by persons prior to becoming members under this section on February 1, 1953, shall be credited under the retirement system to such persons, provided that it would have qualified for credit when rendered, if said persons had been subject then, as they will be under this section, to the provisions of Section 8.509 of this charter and of the ordinances and provisions of the Municipal Code of the City and County of San Francisco relating to retirement of members under said section.

Service rendered to said superior court on and after September 15, 1945, or to said municipal court on and after September 1, 1947, by phonographic reporters prior to becoming members under this section on February 1, 1953, shall be credited under this retirement system to such persons.

Said service, rendered prior to becoming a member under this section on February 1, 1953, shall only be credited to each of such persons if he elect, by written notice, on a form provided by retirement system, filed in the office of the retirement board of said system prior to July 1, 1953, to receive credit for all or any part of said service, and to pay into the retirement fund, at times and in the manner hereinafter provided, the following amounts:

(a) an amount equal to the normal contributions he would have contributed, had he been a member of

the retirement system under Section 8.509, during the time for which he has elected to receive credit for service, on the basis of compensation paid to him by the city and county on account of said service, and

(b) an amount equal to the interest which would have been credited to his account on account of such contributions from the date upon which they would have been made, to the date of payment of such contributions to the retirement system. However, a member shall not receive credit for any portion of such service rendered prior to April 1, 1922, unless he has elected to receive credit for, and has paid into the retirement fund such amount with respect to, all of said service rendered after March 31, 1922. Such amounts shall be paid into the retirement fund by lump sum payment, or payroll deductions or other installments, over a period not exceeding 36 months from July 1, 1953, provided that any balance remaining unpaid at his retirement shall become due and payable forthwith. Benefits, not provided by such amounts, granted to said persons on account of said service rendered prior to February 1, 1953, shall be provided by contributions of the city and county. Such service shall include time during which such person was absent from a status included in the paragraph above by reason of service in the armed forces of the United States in any war in which the United States has engaged.

Notwithstanding the foregoing provisions, any such employee or attache not already a member of the system and who is such an employee or attache on February 1, 1953, shall not become a member of the retirement system, unless he elect prior to July 1, 1953, on a form provided by the retirement system, to be a member of said system, and if he does not so elect, he shall not be a member of the retirement system, and shall not be prevented from continuing in such employment by reason of such provision.

#### **A8.504 RETIREMENT—PARKING AUTHORITY EMPLOYEES**

Officers and employees of the Parking Authority of the city and county shall become members of the San Francisco City and County Employees' Retirement System under Section 8.509 on February 1, 1963, and thereupon shall be subject to all conditions applying to other members under that

section inclusive of the provisions of Section 8.514 of the charter, except as herein otherwise provided; provided, however, that members of such authority are excluded from the San Francisco City and County Employees' Retirement System.

Service rendered to the said Parking Authority by persons prior to becoming members under this section on February 1, 1963, shall be credited under the Retirement System to such persons, subject to the terms and conditions provided herein. Said service shall only be credited to each of such persons if he elect, by written notice, on a form provided by the retirement system and filed in the office of the retirement board of said system prior to July 1, 1963, to receive credit for said service, and to pay into the retirement fund, at times and in the manner fixed by the Retirement Board, the following amounts:

(a) an amount equal to the normal contributions he would have contributed, had he been a member of the retirement system under Section 8.509, during the period in which said service was rendered, on the basis of compensation paid to him by the city and county on account of said service and

(b) an amount equal to the interest which would have been credited to his account on account of such contributions from the date upon which they would have been made, to the date of payment of such contributions to the retirement system; provided that any balance remaining unpaid at his retirement shall become due and payable forthwith. If any such person shall not so elect to receive credit for said service and to pay such amounts of contributions and interest, or having so elected, subsequently does not pay into the retirement fund such amounts at times and in the manner herein provided, and prior to February 1, 1963, he shall enter as a new member without credit for any of said service, any monies theretofore received from him as payment on such amounts together with accumulated interest thereon shall be refunded to him, and the rate of his contribution shall be the normal rate provided in Subsection (h) of Section 8.509 at his age on February 1, 1963, otherwise his rate of contributions shall be the rate provided in said Subsection (h) of Section 8.509 based on his age at the earliest date in the period for which said service is credited. Benefits, not provided by such amounts, granted to said persons on account of said



service rendered prior to the effective date of membership under this section, shall be provided by contributions of the city and county.

Notwithstanding the foregoing provisions, any such officer or employee not already a member of the system and who is such an officer or employee on February 1, 1963, shall not become a member of the retirement system, unless he elects to be a member of said system, in writing, on a form provided by the retirement system and filed in the office of the retirement system prior to July 1, 1963; if he does not so elect he shall not be a member of the retirement system, and shall not be prevented from continuing in such employment by reason of the provisions of this section.

#### **A8.505 RETIREMENT—PORT AUTHORITY EMPLOYEES**

All employees of the Port Authority who, on February 7, 1969, are members of the Public Employees' Retirement System of the State of California shall continue to be members of said Public Employees' Retirement System, with all the rights, privileges and benefits of said system and they shall not be members of the San Francisco City and County Employees' Retirement System; and, notwithstanding any other provisions of this charter, the city and county shall perform all acts necessary to continue the membership of such employees in said Public Employees' Retirement System.

All employees of the Port Authority who, at the time the transfer provided for herein shall go into effect, are covered under the provisions of a retirement program other than the Public Employees' Retirement System of the State of California shall thereafter continue to be covered under such retirement program and they shall not be members of the San Francisco City and County Employees' Retirement System; and, notwithstanding any other provisions of this charter, the city and county shall perform all acts necessary to continue the coverage of such employees under such retirement program.

Persons who, after February 7, 1969, become employees of the city and county in positions related to the operation of the State Belt Railroad and who become covered under the provisions of the Railroad

Retirement Act by virtue of their employment in such positions shall not be members of the San Francisco City and County Employees' Retirement System.

#### **A8.506 SHERIFF'S DEPARTMENT**

Notwithstanding any other provisions of this charter, the board of supervisors shall have the power to contract with the Board of Administration of the Public Employees' Retirement System of the State of California to provide that the sheriff, undersheriff and all deputized personnel of the sheriff's department shall be members of the Public Employees' Retirement System, and the board of supervisors and the retirement board shall have the power to perform all acts necessary to carry out the terms and purposes of such contract. The maximum employee contribution for sheriff, undersheriff and deputized personnel of the sheriff's department shall be seven and one-half percent (7-1/2%). Required contributions exceeding seven and one-half percent (7-1/2%) shall be made by the City and County.

Any person who shall become a member of the Public Employees' Retirement System pursuant to such contract shall have the right to be a member of the health service system and the health service board shall make provisions for participation in the benefits of the health service system by such persons.

#### **A8.506-1 TEACHERS IN THE SAN FRANCISCO UNIFIED SCHOOL DISTRICT AND SAN FRANCISCO COMMUNITY COLLEGE DISTRICT.**

Notwithstanding any other provisions of this charter, the board of supervisors shall have the power to perform any and all acts necessary or appropriate to implement any provisions of the Education Code of the State of California which contemplate that teachers in the San Francisco Unified School District and the San Francisco Community College District shall not be members of the San Francisco City and County Employees' Retirement System but shall be members only of the State Teachers' Retirement System or which contemplate that such teachers may elect to be members of the State Teachers' Retirement System and not to be members of the San Francisco City and County Employees' Retirement System.



**A8.506-2 MISCELLANEOUS SAFETY EMPLOYEES**

Notwithstanding any other provisions of this charter, the board of supervisors or the community college board shall have the power to contract with the Board of Administration of the Public Employees' Retirement System of the State of California to provide that the probation officers, airport police officers, district attorney and public defender investigators, medical examiner investigators, juvenile court counselors, institutional police, fire safety inspectors and fire protection engineers who are not members of the Section 8.588 plans, shall be members of the public employees' retirement system, and the board of supervisors, the community college board and the retirement board shall have the power to perform all acts necessary to carry out the terms and purposes of such contract.

Contracts and contract amendments shall be cost-neutral and employee bargaining units shall be permitted to trade salary or other employer-paid benefits to achieve cost-neutrality. The Board of Supervisors or the Community College District is empowered to determine compliance under this Section. As provided in Section A8.409-5 of the City Charter, disputes under this paragraph shall not be subject to the dispute resolution procedures contained in Charter Section A8.409-4.

Any person who shall become a member of the public employees' retirement system pursuant to such contract shall have the right to be a member of the health service system and the health service board shall make provision for the participation in the benefits of the health service system by such persons. (Amended November 2003)

**A8.506-3 HOUSING AUTHORITY POLICE**

All Housing Police Officers of the Housing Authority who, on July 1, 1984, are members of the Public Employees' Retirement System of the State of California shall continue to be members of said Public Employees' Retirement System, and they shall not be members of the San Francisco City and County Employees' Retirement System. Notwithstanding any other provisions of this charter, the city and county shall perform all acts necessary to continue the membership of such employees in said Public Employees' Retirement System.

Notwithstanding any other provisions of this charter, the board of supervisors shall have the power to contract with the Board of Administration of the Public Employees' Retirement System of the State of California to provide that Housing Authority Police hired after July 1, 1984, shall be members of the Public Employees' Retirement System, and the board of supervisors and the retirement board shall have the power to perform all acts necessary to carry out the terms and purposes of such contract.

Any person who shall become a member of the Public Employees' Retirement System pursuant to such contract shall have the right to be a member of the health service system and the health service board shall make provision for participation in the benefits of the health service system by such persons.

**A8.506-4 PER DIEM NURSES ON JANUARY 1, 1988.**

Registered nurses, hired and compensated by the department of health on a per diem basis, shall not be members of the retirement system or subject to the provisions of the retirement system by reason of such employment.

Members of the retirement system on the effective date of this section shall have the option to be exercised in writing on a form to be furnished by the retirement board and to be filed at the office of the retirement system not later than March 31, 1988, to exclude compensation for per diem nursing as compensation for all retirement system purposes.

The provisions of this section shall be prospective only, shall be effective January 1, 1988 and shall not give any person a claim for refund of pension contributions prior to January 1, 1988.

**A8.506-5 DISTRICT ATTORNEYS, PUBLIC DEFENDERS AND PUBLIC DEFENDER INVESTIGATORS**

(a) Notwithstanding any other provisions of this charter, the board of supervisors shall have the power to contract with the Board of Administration of the Public Employees' Retirement System of the State of California to provide that local prosecutors, public defenders and public defender investigators, on or after January 1, 2002, shall be members of the Public Employees' Retirement System pursuant to Government Code § 20423.6 and the board of

supervisors and the retirement board shall have the power to perform all acts necessary to carry out the terms and purposes of such contract. Any person who shall become a member of the Public Employees' Retirement System pursuant to such contract shall have the right to be a member of the health service system and the health service board shall make provision for the participation in the benefits of the health service system by such persons.

(b) For the purposes of the retirement system and of this section, the terms "local prosecutor, public defender and public defender investigator" or "member," shall mean:

(1) "Local prosecutor" means any one of the following:

(A) An officer or employee of the City and County of San Francisco who meets all of the following criteria:

(i) He or she is employed in the Office of the District Attorney and

(ii) His or her job classification is district attorney, deputy district attorney, chief deputy district attorney, senior deputy district attorney, assistant district attorney, chief assistant district attorney, senior assistant district attorney, or any other similar classification or title.

(B) An officer or employee of the City and County of San Francisco who meets all of the following criteria:

(i) He or she was employed in the Office of the District Attorney prior to the date the local child support agency transitioned from the District Attorney to the San Francisco Office of Child Support Services;

(ii) His or her job classification was district attorney, deputy district attorney, chief deputy district attorney, senior deputy district attorney, assistant district attorney, chief assistant district attorney, senior assistant district attorney, or any other similar classification or title; and

(iii) He or she is an attorney in the San Francisco Office of Child Support Services, with no break in service between employment by the Office of the District Attorney and the San Francisco Office of Child Support Services.

(2) "Local public defender" means an officer or employee of the City and County of San Francisco who meets all of the following criteria:

(A) He or she is employed in the Office of the Public Defender and

(B) His or her job classification is public defender, deputy public defender, chief deputy public defender, senior deputy public defender, assistant public defender, chief assistant public defender, senior assistant public defender, or any other similar classification or title.

(3) "Local public defender investigator" means an officer or employee of the City and County of San Francisco who meets all of the following criteria:

(A) He or she is employed in the Office of the Public Defender;

(B) His or her job classification is inspector, investigator, detective, or any other similar classification or title; and

(C) His or her principal duties are to investigate crime and criminal cases.

(c) The power to enter into a contract under subsection (a), above, shall be limited to a contract that is cost-neutral to the city. Employee bargaining units shall be permitted to trade salary or other employer-paid benefits, including but not limited to social security benefits, to achieve cost-neutrality. As provided in Section A8.409-5 of the City Charter, disputes under this paragraph shall not be subject to the dispute resolution procedures contained in Charter Section A8.409-4. (Added March 2004)

## **A8.507 MISCELLANEOUS OFFICERS AND EMPLOYEES ON JANUARY 8, 1932**

Persons who are officers and employees of this city and county on January 8, 1932, shall become members of the retirement system subject only to the following provisions, in addition to the provisions contained in Sections 3.670, 3.672, 8.500, 8.510, 8.511, 8.520, 8.525 and 8.560, of this charter.

(a) The system shall be applied to such offices, departments, bureaus, or classes of officers or employees of the city and county, including teachers in the San Francisco school department, as the supervisors shall determine; provided, however, that the contributions to be made by said teachers and the benefits to be received by said teachers under said retirement system shall be based upon the proportion of salaries of said teachers which have been and shall be paid out of funds contributed by the city and

county, excluding therefrom the portion of such salaries which have been or shall be paid out of funds contributed by the State of California; and in determining such proportion it shall be taken to be the same proportion which the whole amount of money contributed by the city and county to the common school fund in any fiscal year bears to the whole amount of money contributed to such fund in such year by the state and by the city and county; and provided, further, that nothing herein contained shall be construed to deprive any teacher of the right to receive benefits under any pension or retirement system now or hereafter established by the State of California.

(b) No member of the retirement system shall be retired, except in case of disability incapacitating him for the performance of his duties, unless he shall have attained the age of 62 years and completed 10 years of continuous service, but retirement shall be compulsory at the age of 70 years. It may be provided, however, under such retirement system, that members may retire after 30 years of continuous service; the benefits at retirement in such cases to be determined, because of retirement at an age below 62, in accordance with the tables recommended by the actuary and approved by said retirement board.

(c) All persons who were retired prior to October 1, 1925, from service as teachers in the public schools of San Francisco, under the provisions of the law of 1913, establishing the California Public School Teachers' Retirement Salary Fund, shall be entitled to and shall receive retirement allowances, to be calculated on the same basis as that established for determining the retirement allowances provided for members of the said retirement system.

#### **A8.508 PACIFIC GAS & ELECTRIC COMPANY EMPLOYEES**

The board of supervisors shall have the power to provide by ordinance retirement benefits for persons who become employees of the City and County of San Francisco under any lease, or other temporary arrangement, entered into between said city and county and the Pacific Gas & Electric Company, and because of their employment by said company at the effective date of said lease, or other temporary

arrangement. The effect of said ordinance shall be to provide essentially the same retirement benefits for said employees on account of service rendered under said lease, or other temporary arrangement, as if said persons had been employees of said company throughout the term of said lease.

The further effect of said ordinance shall be to provide for permanent retirement rights for said persons, in the event they become employees of said city and county upon purchase or other permanent acquisition of the properties of said company, essentially the same benefits on account of service rendered as employees of said city and county, as they would have received if they had been members throughout said service of the San Francisco City and County Employees Retirement System on the same basis as other employees of said city and county, except members of fire or police departments.

#### **A8.509 RETIREMENT—MISCELLANEOUS OFFICERS AND EMPLOYEES ON AND AFTER JULY 1, 1967**

Miscellaneous officers and employees, as defined in this section, who are members of the retirement system under this section of the charter on February 1, 1969, and persons who become miscellaneous officers and employees after February 1, 1969, shall be members of the retirement system, subject to the following provisions of this section, in addition to the provisions contained in Sections 3.670, 3.672, 8.500, 8.510 and 8.520 of this charter notwithstanding the provisions of any other section of the charter, provided that the retirement system shall be applied to persons employed on a part-time, temporary or substitute basis only as the board of supervisors shall determine by ordinance enacted by three-fourths vote of all members of the board. Miscellaneous officers and employees of the said departments who are members of the retirement system under Section 8.507 of the charter on February 1, 1969 shall continue to be members of the system under Section 8.507 and shall not be subject to any of the provisions of this section, except as specifically provided in this section.

(a) The following words and phrases as used in this section, unless a different meaning is plainly required by the context, shall have the following meaning:

"Retirement allowance," or "allowance," shall mean equal monthly payments, beginning to accrue upon the date of retirement, and continuing for life unless a different term of payments is definitely provided by the context.

"Compensation," as distinguished from benefits under the workers' compensation laws of the State of California, shall mean all remuneration whether in cash or by other allowances made by the city and county, for service qualifying for credit under this section.

"Compensation earnable" shall mean the compensation as determined by the retirement board, which would have been earned by the member had he worked, throughout the period under consideration, the average number of days ordinarily worked by persons in the same grade or class of positions as the positions held by him during such period and at the rate of pay attached to such positions, it being assumed that during any absence, he was in the

*[Section A8.509 continues on page 41.]*



position held by him at the beginning of the absence, and that prior to entering city-service he was in the position first held by him in city-service.

“Benefit” shall include “allowance,” “retirement allowance,” and “death benefit.”

“Average final compensation” shall mean the average monthly compensation earned by a member during any five consecutive years of credited service in the retirement system in which his average final compensation is the highest, unless the board of supervisors shall otherwise provide by ordinance enacted by three-fourths vote of all members of the board.

For the purposes of the retirement system and of this section, the terms “miscellaneous officer or employee,” or “member,” as used in this section shall mean any officer or employee who is not a member of the fire or police department as defined in the charter for the purpose of the retirement system, under Section 8.507 of the charter.

“Retirement system” or “system” shall mean San Francisco City and County Employees’ Retirement System as created in Section 8.500 of the charter.

“Retirement board” shall mean “retirement board” as created in Section 3.670 of the charter.

“Charter” shall mean the charter of the City and County of San Francisco.

Words used in the masculine gender shall include the feminine and neuter genders, and singular numbers shall include the plural; and the plural the singular.

“Interest” shall mean interest at the rate adopted by the retirement board.

(b) Any member who completes at least 20 years of service in the aggregate credited in the retirement system, and attains the age of 50 years, or at least 10 years of service in the aggregate credited in the retirement system, and attains the age of 60 years, said service to be computed under Subsection (g) hereof, may retire from service at his option. Members shall be retired on the first day of the month next following the attainment by them of the age of 65 years. A member retired after reaching the age of 60 years shall receive a service retirement allowance at the rate of two percent of said average final compensation for each year of service; provided, however, that upon the compulsory retirement of a member upon his attainment of the age of 65 years, if the allowance available to such member, pursuant to the provisions of Subsection (f) of this section, shall be greater in

amount than the service retirement allowance otherwise payable to such member under this Subsection (b), then such member shall receive as his service retirement allowance, in lieu of the allowance otherwise payable under this Subsection (b), an allowance computed in accordance with the formula provided in said Subsection (f). The service retirement allowance of any member retiring prior to attaining the age of 60 years, after rendering 20 years or more of such service and having attained the age of 50 years, computed under Subsection (g), shall be an allowance equal to the percentage of said average final compensation set forth opposite his age at retirement, taken to the preceding completed quarter year, for each year of service, computed under Subsection (g):

Age at Retirement	Percent for Each Year of Credited Service
50	1.0000
50¼	1.0250
50½	1.0500
50¾	1.0750
51	1.1000
51¼	1.1250
51½	1.1500
51¾	1.1750
52	1.2000
52¼	1.2250
52½	1.2500
52¾	1.2750
53	1.3000
53¼	1.3250
53½	1.3500
53¾	1.3750
54	1.4000
54¼	1.4250
54½	1.4500
54¾	1.4750
55	1.5000
55¼	1.5250
55½	1.5500
55¾	1.5750
56	1.6000
56¼	1.6250
56½	1.6500
56¾	1.6750
57	1.7000
57¼	1.7250

Age at Retirement	Percent for Each Year of Credited Service
57½	1.7500
57¾	1.7750
58	1.8000
58¼	1.8250
58½	1.8500
58¾	1.8750
59	1.9000
59¼	1.9250
59½	1.9500
59¾	1.9750
60	2.000

In no event shall a member's retirement allowance exceed 75 percent of his average final compensation.

Before the first payment of a retirement allowance is made, a member retired under this subsection or Subsection (c) of this section, may elect to receive the actuarial equivalent of his allowance, partly in an allowance to be received by him throughout his life, and partly in other benefits payable after his death to another person or persons, provided that such election shall be subject to all the conditions prescribed by the board of supervisors to govern similar elections by other members of the retirement system, including the character and amount, of such other benefits; provided, however, that at any time within 30 days after the date on which his compulsory retirement would otherwise have become effective, a member who has attained the age of 65 years may elect, without right of revocation, to withdraw his accumulated contributions, said election to be exercised in writing on a form furnished by the retirement system and filed at the office of said system, and a member so electing shall be considered as having terminated his membership in said system on the date immediately preceding the date on which his compulsory retirement would otherwise have become effective, and he shall be paid forthwith his accumulated contributions, with interest credited thereon. Notwithstanding the provisions of Section 8.514 of this charter, the portion of service retirement allowance provided by the city and county's contributions shall be not less than \$100 per month upon retirement after 30 years of service and after attaining the age of 60 years, and provided further that

as to any member with 15 years or more of service at the compulsory retirement age of 65, the portion of the service retirement allowance provided by the city and county's contribution shall be such that the total retirement allowance shall not be less than \$100 per month. In the calculations under this subsection of the retirement allowance of a member having credit for service in a position in the evening schools and service in any other position, separate retirement allowances shall be calculated in the manner prescribed for each class of service, the average final compensation in each case being that for the respective class of service; provided that the aggregate retirement allowance shall be taken into account in applying the provisions of this subsection providing for a minimum retirement allowance. Part-time service and compensation shall be reduced to full-time service and compensation in the manner prescribed by the board of supervisors, and when so reduced, shall be applied on full time service and compensation in the calculations of retirement allowances.

(c) Any member who becomes incapacitated for performance of duty because of disability determined by the retirement board to be of extended and uncertain duration, and who shall have completed at least 10 years of service credited in the retirement system in the aggregate, computed as provided in Subsection (g) hereof, shall be retired upon an allowance of one and eight-tenths percent of the average final compensation of said member, as defined in Subsection (a) hereof for each year of credited service, if such retirement allowance exceeds 40 percent of his average final compensation; otherwise one and eight-tenths percent of his average final compensation multiplied by the number of years of city-service which would be credited to him were such city-service to continue until attainment by him of age 60, but such retirement allowance shall not exceed 40 percent of such average final compensation. In the calculation under this subsection of the retirement allowance of a member having credit for service in a position in the evening schools and service in any other position, separate retirement allowances shall be calculated, in the manner prescribed, for each class of service, the average final compensation in each case being that for the respective class of service; provided that the average final compensation upon which the minimum total retirement allowance is calculated in such case shall be based on the

compensation earnable by the member in the classes of service rendered by him during the one year immediately preceding his retirement. Part-time service and compensation shall be reduced to full-time service and compensation in the manner prescribed by the board of supervisors, and when so reduced, shall be applied as full-time service and compensation in the calculation of retirement allowances. The question of retiring a member under this subsection may be brought before the retirement board on said board's own motion, by recommendation of any commission or board, or by said member or his guardian. If his disability shall cease, his retirement allowance shall cease, and he shall be restored to service in the position or classification he occupied at the time of his retirement.

(d) No modification of benefits provided in this section shall be made because of any amounts payable to or on account of any member under workers' compensation laws of the State of California.

(e) If a member shall die, before retirement, (1) No benefit is payable under subdivision (2) of this subsection (e):

(A) Regardless of cause, a death benefit shall be paid to the member's estate or designated beneficiary consisting of the compensation earnable by the member during the six months immediately preceding death, plus the member's contributions and interest credited thereon.

(B) If a member sustains a traumatic bodily injury through external and violent means in the course and scope of employment and death results within 180 days of such injury, an additional insurance benefit of 12 months of compensation earnable shall be paid to the member's estate or designated beneficiary.

(2) If, at the date of his death, he was qualified for service retirement by reason of service and age under the provisions of Subsection (b) of this section, and he has designated as beneficiary his surviving spouse, who was married to him for at least one full year immediately prior to the date of his death, one-half of the retirement allowance to which the member would have been entitled if he had retired from service on the date of his death, shall be paid to such surviving spouse who was his designated-beneficiary at the date of his death, until such spouse's death or remarriage, or if there be no surviving spouse, to the

unmarried child or children of such member under the age of 18 years, collectively, until every such child dies, marries or attains the age of 18 years, provided that no child shall receive any allowance after marrying or attaining the age of 18 years. If, at the death of such surviving spouse, who was receiving an allowance under this Subdivision (2), there be one or more unmarried children of such member under the age of 18 years, such allowance shall continue to such child or children, collectively, until every such child dies, marries or attains the age of 18 years, provided that no child shall receive any allowance after marrying or attaining the age of 18 years. If the total of the payments of allowance made pursuant to this Subdivision (2) is less than the benefit which was otherwise payable under Subdivision (1) of this subsection, the amount of said benefit payable under Subdivision (1) less an amount equal to the total of the payments of allowance made pursuant to this Subdivision (2) shall be paid in lump sum as follows:

(A) If the person last entitled to said allowance is the remarried surviving spouse of such member, to such spouse.

(B) Otherwise, to the surviving children of the member, share and share alike, or if there are no such children, to the estate of the person last entitled to said allowance.

The surviving spouse may elect, on a form provided by the retirement system and filed in the office of the retirement system before the first payment of the allowance provided herein, to receive the benefit provided in Subdivision (1) of this subsection in lieu of the allowance which otherwise would be payable under the provisions of this subdivision. If a surviving spouse, who was entitled to make the election herein provided, shall die before or after making such election, but before receiving any payment pursuant to such election, then the legally appointed guardian of the unmarried children of the member under the age of 18 years, may make the election herein provided before benefit has been paid under this Subsection (e), for and on behalf of such children if, in his judgment it appears to be in their interest and advantage, and the election so made shall be binding and conclusive upon all parties in interest.

If any person other than such surviving spouse shall have and be paid a community property interest in any portion of any benefit provided under this



Subsection (e), any allowance payable under this Subdivision (2) shall be reduced by the actuarial equivalent, at the date of the member's death, of the amount of benefits paid to such other person.

Upon the death of a member after retirement and regardless of the cause of death, a death benefit shall be paid to his estate or designated beneficiary in the manner and subject to the conditions prescribed by the board of supervisors for the payment of a similar death benefit upon the death of other retired members.

(f) Should any miscellaneous member cease to be employed as such a member, through any cause other than death or retirement, all of his contributions, with interest credited thereon, shall be refunded to him subject to the conditions prescribed by the board of supervisors to cover similar terminations of employment and reemployment with and without redeposit of withdrawn accumulated contributions of other members of the retirement system, provided that if such member is entitled to be credited with at least 10 years of service or if his accumulated contributions exceed \$1,000, he shall have the right to elect, without right of revocation and within 90 days after said termination of service, or if the termination was by lay-off, 90 days after the retirement board determines the termination to be permanent, whether to allow his accumulated contributions to remain in the retirement fund and to receive benefits only as provided in this paragraph. Failure to make such election shall be deemed an irrevocable election to withdraw his accumulated contributions. A person who elects to allow his accumulated contributions to remain in the retirement fund shall be subject to the same age requirements as apply to other members under this section for service retirement, but he shall not be subject to a minimum service requirement. Upon the qualification of such member for retirement by reason of age, he shall be entitled to receive a retirement allowance which shall be the actuarial equivalent of his accumulated contributions and an equal amount of the contributions of the city and county, plus 1- $\frac{2}{3}$  percent of his average final compensation for each year of service credited to him as rendered prior to his first membership in the retirement system. Upon the death of such member prior to retirement, his contributions with interest credited thereon shall be paid to his estate or designated beneficiary.

(g) The following time and service shall be included in the computation of the service to be credited to a member for the purpose of determining whether such member qualifies for retirement and calculating benefits:

(1) Time during which said member is a member of the retirement system and during and for which said member is entitled to receive compensation because of services as a miscellaneous officer or employee.

(2) Service in the fire and police departments which is not credited as service of a member under this section shall count under this section upon transfer of a member of either of such departments to employment entitling him to membership in the retirement system under this section, provided that the accumulated contribution standing to the credit of such member shall be adjusted by refund to the member or by payment of the member, to bring the account at the time of such transfer to the amount which would have been credited to it had the member been a miscellaneous employee throughout the period of his service in either such departments at the compensation he received in such departments.

(3) Time during which said member is absent from a status included in paragraphs (1) or (2) next preceding which is not deemed absence from service under the provisions of Section 8.520 of the charter and for which such member is entitled to receive credit as service for the city and county by virtue of contributions made in accordance with the provisions of such section.

(4) Prior service determined and credited as prescribed by the board of supervisors for persons who are members under Section 8.507.

(5) The board of supervisors, by ordinance enacted by a three-fourths vote of its members, may provide for the crediting as service under the retirement system of service, other than military service, rendered as an employee of the federal government and service rendered as an employee of the State of California or any public entity or public agency in the State of California. Said ordinance shall provide that all contributions required as the result of the crediting of such service shall be made by the member and that no contributions therefor shall be required of the city and county.



(h) All payments provided under this section shall be made from funds derived from the following sources, plus interest earned on said funds:

(1) There shall be deducted from each payment of compensation paid to a member under Section 8.509 a sum equal to 7-½ percent of such payment of compensation. The sum so deducted shall be paid forthwith to the retirement system. Said contribution shall be credited to the individual account of the member from whose salary it was deducted, and the total of said contributions, together with interest credited thereon in the same manner as is prescribed by the board of supervisors for crediting interest to contributions of other members of the retirement system, shall be applied to provide part of the retirement allowance granted to, or allowance granted on account of said member under Section 8.509, or shall be paid to said member or his estate or beneficiary as provided in Sections 8.509(e) and 8.509(f).

(2) Contributions based on time included in paragraphs (1) and (3) of Subsection (g), and deducted prior to July 1, 1947, from compensation of persons who become members under this section, and standing with interest thereon, to the credit of such members on the records of the retirement system on said date, shall continue to be credited to the individual accounts of said members, and shall be combined with and administered in the same manner as the contributions deducted after said date.

(3) The total contributions, with interest thereon, made by or charged against the city and county and standing to its credit, on July 1, 1948, in the accounts of the retirement system, on account of persons who become members under this section, shall be applied to provide the benefits under this section.

(4) The city and county shall contribute to the retirement system such amounts as may be necessary, when added to the contributions referred to in the preceding paragraphs of this Subsection (h), to provide the benefits payable under this section. Such contributions of the city and county to provide the portion of the benefits hereunder, which shall be based on service rendered by each member prior to the date upon which his rate of contribution is determined in paragraph (1), Subsection (h), shall not be less during any fiscal year than the amount of such benefits paid during said year. Such contributions of the city and

county to provide the portion of the benefits hereunder, which shall be based on service rendered by respective members on and after the date stated in the next preceding sentence, shall be made in annual installments, and the installment to be paid in any year shall be determined by the application of a percentage to the total salaries paid during said year, to persons who are members under this section, said percentage to be the ratio of the value of the effective date hereof, or at the later date of a periodical actuarial valuation and investigation into the experience under the system, of the benefits thereafter to be paid under this section, from contributions of the city and county, less the amount of such contributions, and plus accumulated interest thereon, then held by said system to provide said benefits on account of service rendered by respective member after the date stated in the sentence next preceding, to the value at said respective dates of salaries thereafter payable to said members. Said values shall be determined by the actuary, who shall take into account the interest which shall be earned on said contributions, the compensation experience of members, and the probabilities of separation by all causes, of members from service before retirement, and of death after retirement. Said percentage shall be changed only on the basis of said periodical actuarial valuation and investigation into the experience under the system. Said actuarial valuation shall be made every even-numbered year, and said investigation into the experience under the system shall be made every odd-numbered year.

Notwithstanding the provisions of this Subdivision (4), any additional liabilities created by the amendments of this Section 8.509 contained in the proposition therefor submitted to the electorate on November 6, 1973, shall be amortized over a period of 30 years.

(5) To promote the stability of the retirement system through a joint participation in the result of variations in the experience under mortality, investment and other contingencies, the contributions of both members and the city and county, held by the system to provide the benefits under this section, shall be a part of the fund in which all other assets of said system are included. Nothing in the section shall affect the obligations of the city and county to pay to the retirement system any amounts which may or shall become due under the provisions of the charter prior

to the effective date hereof, and which are represented on July 1, 1947, in the accounts of said system by debits against the city and county.

(i) Upon the completion of the years of service set forth in Subsection (b) of this section as requisite to retirement, a member shall be entitled to retire at any time thereafter in accordance with the provisions of said Subsection (b), and nothing shall deprive said member of said right.

(j) Except as otherwise provided in section 8.511 of this charter, no person retired under this section, for service or disability and entitled to receive a retirement allowance under the retirement system, shall serve in any elective or appointive position in the city and county service, including membership on boards and commissions, nor shall such persons receive any payment for service rendered to the city and county after retirement, provided that service as an election officer or juror shall not be affected by this section.

(k) Any section or part of any section in this charter, insofar as it should conflict with this section, or with any part thereof, shall be superseded by the contents of this section. In the event that any word, phrase, clause or subsection of this section shall be adjudged unconstitutional, the remainder thereof shall remain in full force and effect.

(l) Notwithstanding the provisions of Subsections (b), (c), (f), and (i) of this section, any member convicted of a crime involving moral turpitude, committed in connection with his duties as an officer or employee of the City and County of San Francisco, shall, upon his removal from office or employment pursuant to the provisions of this charter, forfeit all rights to any benefits under the retirement system except refund of his accumulated contributions; provided, however, that if such member is qualified for service retirement by reason of service and age under the provisions of Subsection (b) of this section, he shall have the right to elect, without right of revocation and within 90 days after his removal from office or employment, whether to withdraw all of his accumulated contributions or to receive as his sole benefit under the retirement system, an annuity which shall be the actuarial equivalent of his accumulated contributions at the time of such removal from office or employment.

(m) The amendments of this section contained in the proposition submitted to the electorate on

November 6, 1984 are hereby declared to be prospective and shall not give any person a claim against the city and county relating to a death prior to ratification of this amendment by the State Legislature.

### **A8.510 ACTUARIAL TABLES, RATES AND VALUATIONS**

The mortality, service and other tables, and the rates of contributions for members as recommended by the actuary and the valuations determined by him and approved by the retirement board, shall be conclusive and final, and the retirement system shall be based thereon. The total amount, as determined by the actuary and approved by the board, of the contributions required during any fiscal year of the city and county under the retirement system, shall be paid into the retirement system by the city and county during such year. Liabilities accruing under the retirement system because of service rendered to the city and county by persons prior to the date their respective classes become eligible for membership in the system, and administrative costs under the system, shall be met by contributions to the retirement system by the city and county, in addition to any amounts contributed to meet liabilities accruing because of service rendered by such persons after becoming members of the system, provided that such prior service liabilities may be met by annual appropriations instead of by one appropriation for the total amount of the liabilities; and provided further, that such appropriation for any one year shall not be less than the amount disbursed during that year on account of prior service. All expenses in connection with the investment of such fund or funds as may be established, including but not limited to travel and transportation costs, investment seminar expenses, postage, insurance, telephone, and subscriptions to investment publications, shall be paid from the accumulated contributions of the city and county.

Notwithstanding the provisions of Section 8.509(h)(5), said actuarial valuation and said investigation into the experience under the system shall be made as determined by the retirement board; provided, however, that said actuarial valuation shall be made not less than once every two years. All expenses in connection with said actuarial valuation and said investigation into the experience under the system; all expenses incurred by financial audits and accounting systems and procedures; and, all expenses

of administration of plan benefits, including legal expenses thereof, shall be paid from the accumulated contributions of the city and county.

Contributions to the retirement system required of the city and county shall be charged by the controller against the general fund or the school, utility, bond or other special fund under which the service was rendered, on account of which the contribution is required; provided that contributions required on account of service rendered by any person prior to becoming a member of the system, under a temporary fund, such as bond or county roads funds, or a fund then no longer existing, may be charged against the general fund, and provided further, that any contributions required on account of persons receiving benefits under subdivision (c) of Section 8.507, shall be charged against the general fund.

#### **A8.511 PENSIONS OF RETIRED PERSONS**

(a) Except as provided in subsection (c) of this section, no person retired for service or disability, and in receipt of a retirement allowance under the retirement system, shall serve in any elective or appointive position in the city and county service, including membership on boards and commissions, nor shall such persons receive any payment for service rendered to the city and county after retirement, provided that service as an election officer or juror, or in the preparation for or the giving of testimony as an expert witness for or on behalf of the City and County of San Francisco before any court or legislative or administrative body, shall not be affected by this section or by Section 8.509, Section 8.546 or Section 8.581 of the charter.

(b) Should any retired person, except persons retired for service prior to January 8, 1932, and persons retired because of disability incurred in the performance of duty, engage in a gainful occupation prior to attaining the age of 62, the retirement board shall reduce that part of his/her monthly pension or retirement allowance which is provided by contributions of the city and county, to an amount which, when added to the amount earned monthly by him/her in such occupation, shall not exceed the compensation on the basis of which his/her pension or retirement allowance was determined.

(c) Limited employment in positions requiring special skills or knowledge:

(1) A retired person, who is a certificated employee, may enter into a consultancy contract with the San Francisco Unified School District or the San Francisco Community College District to the extent authorized by state law. Notwithstanding any other provisions of this charter to the contrary, a certificated employee who enters into such a consultancy contract shall not be reinstated as a member of the retirement system. No deduction shall be made from his or her compensation as contributions to the retirement system, and his or her retirement allowance shall not be terminated or suspended.

(2) A retired person may be employed in a position other than a certificated position, requiring special skills or knowledge, for not to exceed 120 working days or 960 hours, whichever is greater, in any one fiscal year and may be paid for that employment. That employment shall not operate to reinstate the person as a member of the retirement system or to terminate or suspend the member's retirement allowance, and no deductions shall be made from his or her salary as contributions to the retirement system. Furthermore, this employment shall not replace a permanent civil service employee.

#### **A8.512 RELINQUISHMENT OF CERTAIN RETIREMENT ALLOWANCES**

Any person who retired under the San Francisco City and County Employees' Retirement System from an employment status in which he was a member of the State Teachers' Retirement System, and whose retirement was effective after June 30, 1955, and not later than 90 days after February 1, 1957, may elect, in writing on a form provided by the retirement system and to be filed at the office of said system within 90 days after February 1, 1957, to relinquish his right to a retirement allowance from said City and County Employees' Retirement System. If such person so elects to relinquish said right, his retirement allowance shall be cancelled forthwith and no payments of such allowance shall be made to him, or on his account, for time on and after the effective date of such election, and such election shall be irrevocable. The San Francisco City and County Employees' Retirement System shall pay or be liable to pay to or on account of such person, only an amount equal to the actuarial equivalent, as of the effective date of such relinquishment, and on the basis



of the mortality tables and interest rate then used under the system, of the portion of the cancelled allowance which was provided by said person's accumulated contributions at the effective date of his retirement. An amount equal to such actuarial equivalent shall be forwarded forthwith to the Retirement Annuity Fund of said State Teachers' System, to be applied on the amount due to said fund from said person under the provisions of Division (7), Chapter 14 of the Education Code of the State of California, but not to exceed the amount so due as may be quoted in a written statement requested of and received from said State Teachers' Retirement System as applied to any person herein involved. Any excess of the actuarial equivalent over said amount so quoted as due shall be paid forthwith to said person.

**A8.513 CREDIT ON CURRENT CONTRIBUTIONS, FOR CERTAIN PUBLIC RESERVES RELEASED BY WITHDRAWAL OR RELINQUISHMENT BY RETIRING OR RETIRED TEACHERS**

In the event that any teacher or other employee of the board of education resigns and withdraws during or after the fiscal year which will end June 30, 1957, his accumulated contributions from the San Francisco City and County Employees' Retirement System, and instead, within 90 days after such withdrawal is in the status of a person retired under the State Teachers' Retirement System of California on an allowance based on the full allowance formulae under said state system, the contributions which the San Francisco Unified School District is required to make to said City and County Employees' Retirement System on account of service rendered by employees of such unified school district as such members of such system, in accordance with the rate of contribution determined under Section 8.509 of the charter, shall be reduced by an amount equal to the actuarial equivalent as of the day next following the date of such withdrawal, of the portion of the allowance to which such person would have been entitled from said City and County Employees' Retirement System, if he had not resigned, and which would have been based on his service as a member of such City and County Employees' Retirement System, minus the amount of his accumulated normal contributions withdrawn.

In the event that any person retired under the San Francisco City and County Employees' Retirement

System from an employment status in which he was a member of the State Teachers' Retirement System, has elected or elects to relinquish his right to a retirement allowance from said City and County Employees' Retirement System, the contributions which the San Francisco Unified School District is required to make to the City and County Employees' Retirement System on account of service rendered by employees of such unified school district as members of such system in accordance with the rate of contribution determined under Section 8.509 of the charter, shall be reduced by an amount equal to the actuarial equivalent as of the effective date of such relinquishment, and as determined in connection with such relinquishment, of the portion of the allowance to which said person would have been entitled had he not so elected, and which was based on his service as a member of the City and County Employees' Retirement System, minus the actuarial equivalent determined in connection with such relinquishment of the portion of the cancelled allowance which was provided by said person's accumulated normal contributions at the effective date of his retirement.

If the total of the actuarial equivalents by which the contributions required of the San Francisco Unified School District in any year are to be reduced, exceeds such contributions, the amount of the excess shall be carried over to subsequent fiscal years and applied to reduce such contributions for such years in chronological order.

**A8.514 SOCIAL SECURITY COVERAGE**

The board of supervisors may enact, by a vote of three-fourths of its members, an ordinance or ordinances prescribing the conditions according to which any and all employees of the San Francisco Unified School District and employees of the City and County of San Francisco, other than members of the fire and police department as defined in Section 8.560, may be covered under the Federal Old-Age and Survivors Disability Insurance provisions of the Federal Social Security Act, subject to the provisions of this section. "City and county" as hereinafter used shall mean the City and County of San Francisco and the San Francisco Unified School District.

(a) Any member of the San Francisco City and County Employees' Retirement System, hereinafter referred to as the system, who is or becomes covered by the Federal Old-Age and Survivors Disability



Insurance provisions of the Federal Social Security Act, hereinafter referred to as the Act, shall continue to contribute to the system the normal contributions required of him, except that he shall have the right to reduce his normal contributions under the system at his option to be exercised by an election on the system's form, said election to be effective on the first day of the month next following its filing in the system's office. Such reduction of normal contributions shall apply only to time during which said member is covered under the Act, and after February 1, 1959, and the amount of said reduction, which may be changed from time to time by said member, in accordance with rules and regulations of the Retirement Board, shall not be more than the amount of said member's contribution under the Act.

Any allowance payable to or on account of such member by the system shall be reduced on the effective date of said allowance by the actuarial equivalent on that date of the normal contributions, including interest to said date, with which said member would have been but was not credited under the system because of said reduction in his normal contributions and because of amounts paid from such member's accumulated contributions for the retroactive period hereinafter provided for, and any continuation of said allowance shall be based on such reduced allowance but said allowance shall not be effected otherwise by the member's reduction of his normal contributions. Said member shall have the right to contribute amounts, which shall be administered as additional contributions, to replace all or part of such reduction in his retirement allowance.

(b) The reductions in allowances and contributions of members shall be made as provided in the foregoing paragraphs, notwithstanding any provisions in the charter to the contrary.

(c) Every employee covered by the agreement providing coverage under the Act shall be liable for the employee contributions required by the Act.

(d) The effective date of coverage under the Act may be made retroactive to such date as the board of supervisors may determine.

Contributions required under the Act of each member for time included by the retroactive application shall be paid from such member's accumulated contributions held by the system on account of his compensation not in excess of the maximum compensation taxable under this Act for

such retroactive time. If the required contributions under the Act exceed the member's accumulated contributions held by the system so determined, the additional contributions under the Act equal to the excess shall be paid by the member. Contributions required under the Act of the employer on account of such retroactive period shall be paid from funds held by the system on account of active members and derived from contributions of the city and county.

(e) Any member who is covered by Section 210(1) of the Act on the effective date of the agreement between the state and federal government to extend coverage to the members of the system under the Act shall not be subject to this section unless he elect to be covered in accordance with this section, such election to be on a form furnished by the system and to be filed in the office of the system not later than 180 days after the effective date of such agreement. Such election shall be irrevocable. Such election shall fix the status of the member under such coverage as the same in all respects as if he had not been covered under Section 210(1), except that there shall be no adjustment of the member's accumulated contributions or of the funds held by the system, and derived from contributions of the city and county, on account of social security tax for such retroactive period.

Each member who enters the employ of the municipal railway after the effective date of the agreement between the state and federal government to extend coverage to other members of the system under the Act, shall be covered under the Act in accordance with the terms of this section and the ordinance or ordinances enacted pursuant thereto.

(f) Provision shall be made for modification of the member's retirement allowances at his option, if he retires before he attains the minimum age of qualification for his primary benefit under the Act, in such manner that will make his increased monthly retirement allowance under the system prior to attainment of such age equal to the sum of his decreased monthly allowance after attainment of such age, and his primary benefit under the Act, upon the basis of an estimated primary benefit under the Act, subject to the requirement that the amounts of the increase and decrease in the monthly allowance shall be actuarially equivalent, and that the increase shall not be modified under an option provided by ordinance.

(g) Words used in the masculine gender shall include the feminine and neuter genders, and singular

numbers shall include the plural and the plural the singular.

(h) The contribution rates of the city and county applicable to various membership under Section 8.509 shall be adjusted to rates determined by the actuary according to methods stated in Section 8.509.

(i) The board of supervisors shall submit to the eligible employees for purposes of referendum, as defined in the Act, the question as to whether they desire coverage under the Act in accordance with conditions prescribed in this section.

(j) The powers of the board of supervisors granted in Section 8.500 shall include the authority to make such adjustments in the retirement system, by a vote of three-fourths of its members, as are not made by this section, but as required because of changes in the Act, to carry out the purposes of this section.

#### **A8.515 COMPENSATION INSURANCE PAYMENTS**

The benefit provisions of the workmen's compensation laws included in the Labor Code of the State of California, as they effect the benefits provided for or payable to or on account of officers and employees, including teachers of the city and county, shall be administered exclusively by the retirement board, provided that the retirement board shall determine whether the city and county, through the retirement system, shall assume the risks under the said law, in whole or in part, or whether it shall reinsure such risks, in whole or in part, with the state compensation insurance fund. Benefits under such risks as may be assumed by the city and county, and premiums under such risks as may be reinsured shall be paid by the retirement system, and an amount equal to the total of such benefits and premiums, as determined by the actuary for any fiscal year, including the deficit brought forward from previous years, shall be paid during such fiscal year to the retirement system by the city and county.

Every patrol special police officer, as referred to in Section 8.509 of this charter shall be entitled, under this section, to the benefits of such compensation law, if injured while performing regular city and county police duties, which shall include only duties performed while preventing the commission of a crime, or while apprehending the person or persons committing such crime, and shall not include duties of any character performed for private employers either

on or off the premises of such employers, provided that no payments shall be made under this paragraph in the event that the patrol special officer shall receive the benefits of such compensation law from any other source.

Whenever any member of the fire or police department, as defined in Sections 8.545, 8.565, and 8.569, respectively, is incapacitated for the performance of his duties by reason of any bodily injury received in or illness caused by the performance of his duty as determined by the retirement board, he shall become entitled, regardless of his period of service with the city and county, to disability benefits equal to and in lieu of his salary as fixed by the charter, while so disabled, for a period or periods not exceeding 12 months in the aggregate, with respect to any one injury or illness. Said disability benefits shall be reduced in the manner fixed by the board of supervisors by the amount of any benefits other than medical benefits payable to such person under the Labor Code concurrently with said disability benefit, and because of the injury or illness resulting in said disability. Such disability benefits as are paid in the absence of payments of any benefits other than medical benefits under the workmen's compensation laws included in said Labor Code, shall be considered as in lieu of such benefits, payable to such person under the said code concurrently with said disability benefits, and shall be in satisfaction and discharge of the obligations of the city and county to pay such benefits under the Labor Code. Medical treatment which may become necessary to relieve or cure said member from the effects of the injury or illness shall be furnished by the city and county, in the same manner that such treatment is furnished under said Labor Code, but without first requiring continuing awards of such treatment by the Industrial Accident Commission of the State of California, relating to impairments of permanent or of extended and uncertain duration. The provisions of this paragraph shall be administered exclusively by the retirement board, and the city and county and unified school district and community college district shall pay to the retirement system during each fiscal year, an amount equal to the total disability benefits paid by said system during the fiscal year and, pursuant to applicable provisions of the Administrative Code of the city and county, the unified school district and community college district shall pay to the retirement

system during each fiscal year, a proportionate share of the costs of administering workers compensation benefits on behalf of employees of said school and college districts.

A member of the fire or police department shall receive credits as service, under the retirement system, for time during which he is incapacitated for performance of duty and receives said disability benefit. Contributions for the retirement system shall be deducted from said benefits in the same manner as they would be deducted from salary paid to him, and the city and county shall contribute, in addition to its other contributions provided herein, to the retirement system on the basis of said benefits in the same manner as it would contribute on salary paid to said member.

#### **A8.516 DISABILITY BENEFITS**

Whenever any member of the police or fire department, as defined in Sections 8.586-1 and 8.588-1, respectively, is incapacitated for the performance of his duties by reason of any bodily injury received in, or illness caused by, the performance of his duty, as determined by the retirement board, he shall become entitled with respect to any one injury or illness, regardless of his period of service with the city and county, to disability benefits equal to and in lieu of his salary, while so disabled, for a period or periods not exceeding 12 months in the aggregate, or until such earlier date as he is retired, whether for service or disability.

Said disability benefit shall be reduced in the manner fixed by the board of supervisors by the amount of any benefits other than medical benefits payable to such person under the Labor Code concurrently with said disability benefit, and because of the injury or illness resulting in said disability. Such disability benefits as are paid in the absence of payments of any benefits other than medical benefits under the workers' compensation laws included in said Labor Code, shall be considered as in lieu of such benefits payable to such person under the said code concurrently with said disability benefits, and shall be in satisfaction and discharge of the obligations of the city and county to pay such benefits under the Labor Code.

The provisions of this section shall be administered exclusively by the retirement board, and

the city and county shall pay to the retirement system during each fiscal year an amount equal to the total disability benefits paid by said system during that year.

A member of the police or fire department shall receive credit as service, under the retirement system, for time during which he is incapacitated for performance of duty and receives said disability benefit; provided, however, that contributions for the retirement system shall be deducted from payments of such disability benefits paid to him. The city and county shall contribute, in addition to its other contributions provided herein, to the retirement system on the basis of said benefits in the same manner as it would contribute on salary paid to said member.

#### **A8.517 ELIMINATION OF MANDATORY RETIREMENT**

Notwithstanding the provisions of Subsection (b) of Section 8.509 and Section 8.584-2, members subject to said sections shall not be required to retire upon attainment of the age of 65 years. Any member who attains the age of 65 years with less than 10 years of credited service in the aggregate in the retirement system and who would have been subject to compulsory retirement upon the attainment of the age of 65 years in the absence of the provisions of this Section 8.517 may elect to retire upon the first day of the month next following the month in which he or she attains the age of 65 years and receive the allowance he or she would have received if this Section 8.517 had not been in effect; provided, however, that any such member who elects not to so retire and continues as a member after the first day of the month next following his or her attainment of the age of 65 years shall not be entitled to receive a service retirement allowance until completion of the years of credited service required by the provisions of said Subsection (b) of Section 8.509 or Section 8.584-2, as the case may be, in order to qualify for service retirement.

The provisions of this Section 8.517 do not and shall not entitle any person retired under the retirement system to be re-employed.

#### **A8.518 HEARING OFFICER**

Notwithstanding the provisions of Section 3.671, Subsection (c) of Section 8.509, Sections 8.515, 8.516, 8.547, 8.548, 8.559-3, 8.559-4, 8.571, 8.572,



8.584-3, 8.585-3, 8.585-4, 8.586-3, 8.586-4, 8.588-3 or 8.588-4, any application for disability leave, disability retirement, or death allowance made pursuant to said subsection of said sections of this charter shall be heard by a qualified and unbiased hearing officer employed under contract by the retirement board and selected by procedures set forth in the rules of the retirement board. The retirement board shall have the power to establish rules setting forth the qualifications and selection procedure necessary to appoint a qualified and unbiased hearing officer.

Following public hearing, the hearing officer shall determine whether such application shall be granted or denied.

All expenses relating to processing and adjudicating the above applications, including but not limited to the cost of hearing officer, legal, investigative, and court reporter services, shall be paid from the compensation fund.

At any time within 30 days after the service of the hearing officer's decision, the applicant or any other affected party, including the retirement system, may petition the hearing officer for a rehearing upon one or more of the following grounds and no other:

- a. That the hearing officer acted without or in excess of his powers.
- b. That the decision was procured by fraud.
- c. That the evidence does not justify the decision.
- d. That the petitioner has discovered new evidence material to him, which he could not, with reasonable diligence, have discovered and produced at the hearing.

Upon the expiration of 30 days after the petition for rehearing is denied, or if the petition is granted, upon the expiration of 30 days after the rendition of the decision or hearing, the decision of the hearing officer shall be final. Such final decision shall not be subject to amendment, modification or rescission by the retirement board, but shall be subject to review by the retirement board only for the purpose of determining whether to seek judicial review, and such final decision shall be deemed for all purposes to be the decision of the retirement board.

The provisions of this section shall become operative on October 1, 1980.

#### **A8.519 RETIREMENT SYSTEM CREDIT FOR REPRESENTATIVE SERVICE**

Notwithstanding any other provision of this charter, any member of the retirement system who is on leave of absence and serving on a full time basis as an employee representative for a recognized employee organization and representing city and county employees, shall have the right to make contributions and obtain service credit with the retirement system subject to the terms of this section.

For purposes of this section, compensation shall mean the remuneration paid in cash, as it may change from time to time, attached to the rank or position held by the member while on leave. For members whose pay hours are established by the choice of assignment, shift, or run based on seniority, compensations shall mean an amount computed by applying the current wage rate for such members as it may change from time to time, to the hours in the assignment, shift, or run held by the member immediately prior to the commencement of his or her leave.

There shall be no cost to the city and county for representative service. The member shall be responsible for transmittal of all contributions which would ordinarily be paid by the member and the city and county. No service credit will be allowed unless and until all contributions are received by the retirement system. The organization may agree to pay the employer contributions which would ordinarily be paid by the city and county. The member shall pay the member contributions. If the organization does not pay the employer contributions the member must pay those contributions in order to obtain representative service credit.

A member may receive credit for representative service prior to January 1, 1988, pursuant to the preceding paragraph, when agreed by the member and the organization.

The retirement board shall have the authority to establish procedures to calculate compensation and collect contributions plus interest for representative service. The calculation of compensation herein shall also be used in determining the average final compensation in computing the member's retirement allowance.



This section shall be effective January 1, 1988. This section shall not apply to retirement system members or their successors in interest who retired or terminated prior to January 1, 1988. This section shall not apply to representative service prior to a member's effective date of membership with the retirement system.

At the request of any city employee, who is a member of the State of California Public Employees' Retirement System and who takes a leave of absence to serve on a full time basis as an employee representative for a recognized employee organization representing City and County employees, the City shall, subject to the statutes and regulations of the Public Employees' Retirement System, submit to the Board of Administration of the Public Employees' Retirement System proposed amendments to the contract between the City and County and that retirement system to allow such person to make contributions and obtain service credit during the leave of absence.

The duty to submit proposed contract amendments shall be limited to amendments which shall not provide for or allow any cost to the city and county.

#### **A8.520 CONTINUOUS SERVICE**

(a) Continuous service shall be defined by the board of supervisors, but the absence prior to September 14, 1940, of any officer or employee of the city and county from service caused by reason of the service of such officer or employee in the military or naval forces of the United States in any war in which the United States has engaged, shall not be deemed to be absence from service for the purposes of the retirement system and such officer or employee shall receive credit under the retirement system, for the period of such absence, in the same manner as if he had not been absent.

On and after September 14, 1940, a member is absent on military service when he is absent from city service by reason of:

(1) service with the armed forces of the United States or the State of California;

(2) service on ships operated by or for the United States government when such service is granted as "military leave" pursuant to section 3.670 and 3.671 of the charter;

(3) service connected with the war effort for which leaves of absence shall be authorized pursuant to Sections 3.670 and 3.671 of the charter; or

(4) any other service, under an order of the government of the United States or the State of California, or by lawful order of any of the departments or offices of said governments, provided that such absence in any of such services occurs:

(A) either during a war involving the United States as a belligerent or in time of national emergency, declared by the President of the United States or by the Congress, and for such time thereafter as may be provided by rule of the civil service commission, but not to exceed two years after the proclamation of peace, except in case of disability incurred in line of duty with said armed forces or said ships when such disability extends beyond such period; or

(B) in time of peace if he is drafted for such services by the United States government or volunteers for such service while subject to such draft.

For the purpose of this section a war involving the United States as a belligerent exists:

(1) whenever Congress has declared any war which has not been terminated by a truce, treaty of peace, or otherwise;

(2) whenever the United States is engaged in active military operations against any foreign power, whether or not war has been formally declared; or

(3) whenever the United States is assisting the United Nations, in actions involving the use of armed force, to maintain or restore international peace and security.

(b) Any member so absent on military service may contribute to the retirement system during such absence, at times and in the manner prescribed by the board, amounts equal to the contributions which would have been made by him to the system on the basis of his compensation earnable at the commencement of his absence, if he had remained in city service.

Any member who makes the contributions as provided in the preceding paragraph shall receive credit for the absence as service in the manner as if he had not been absent. If, however, a member does not affirmatively exercise the option herein provided, or if he exercised it affirmatively and defaults in any of the contributions due to the retirement system under

said election, and in either event if such contributions are not made for him, he shall be considered absent during the period for which no contributions are made, and he shall not receive credit as service for the city and county for such period; but the absence during such period shall not break the continuity of such service required of such member to entitle him to a retirement allowance, as provided under the retirement system.

Any member who was absent on military service and who did not make the contributions as provided in this section, and whose contributions are not paid for him by the city and county as provided herein, may make such contributions upon his return to city service at times and in the manner prescribed by the board. If he does so contribute, he shall receive credit for the absence as service in the same manner as if he had not been absent.

When a member makes the contributions as provided herein, the same contributions shall be made by the city and county, in respect to such absence, that would have been made if the member had not been absent on military service, except that such contributions shall be determined by the employer's rate of contribution in effect when such contributions are made, and on the basis of his compensation earnable at the commencement of his absence.

(c) Notwithstanding other provisions of this charter to the contrary, the city and county shall contribute for each member of this system who was absent on military service after September 14, 1940, amounts equal to the contribution which would have been made by such member and the City and County of San Francisco on the basis of his compensation earnable at the commencement of his absence, provided that the member's base pay in such military service is less than \$100 per month, and provided, further:

(1) that if the absence in military service was by reason of service in the armed forces of the United States;

(2) that the absence began on or after June 25, 1950; and

(3) that the member's base pay in such service was less than \$250 per month, the city and county shall pay the contributions which would have been made by both the member and the city and county on the basis of his compensation earnable at the commencement of his absence. Contributions made by

the city and county, in lieu of contributions which otherwise would be required of the member, shall be administered as if made by said member as normal contributions. Any such member who exercises or did exercise the right to contribute to the system during the period of absence on military service, and whose contributions otherwise would be paid by the city and county under this section, shall have his contributions plus credited interest, refunded.

(d) Absence commencing on or after December 7, 1941, of any member of the retirement system from city service caused by reason of his evacuation or exclusion from the city and county by an authorized military commander because such member was of Japanese ancestry shall not be deemed to be absent from service for purposes of the retirement system, for the period of such absence, provided that he returned to city service within one year after the termination of his evacuation or exclusion, and provided further that upon his return to city service, and at times and in the manner prescribed by the retirement board, he elects to contribute to the retirement system amounts equal to the contributions which would have been made by him to the system on the basis of his compensation earnable at the commencement of his absence, if he had remained in city service.

Any member who makes the contributions as provided in the preceding paragraph shall receive credit under the retirement system for the absence as service in the same manner as if he had not been absent. If, however, a member does not affirmatively elect to make such contributions as herein provided, or if he affirmatively elects to make such contributions and defaults in any of the contributions due to the retirement system as herein provided, he shall be considered absent during the period for which no contributions are made, and he shall not receive credit in the retirement system as service for the city and county for such period; but the absence during such period shall not break the continuity of such service required of such member to entitle him to a retirement allowance as provided under the retirement system.

When a member makes the contributions as provided herein, the same contributions shall be made by the city and county in respect to such absence that would have been made by the city and county if the member had not been absent because of such evacuation or exclusion, except that such contributions

shall be determined by the employer's rate of contribution in effect when such contributions are made, and on the basis of his compensation earnable at the commencement of his absence.

(e) Notwithstanding any other provision of this charter, any member who entered military service from a position with the Market Street Railway Company, was absent on such military service on September 29, 1944, and thereafter commenced employment with the Municipal Railway of the City and County of San Francisco within one year after his discharge from such military service, shall have the right to elect to make contributions as provided in this section and to receive credit in this system as city service for all or any part of the time on and after September 29, 1944, during which he was in such military service.

Any member who elects, pursuant to this section, to make contributions and to receive credit for such time, shall contribute to the Retirement System an amount determined by applying the rate of contribution first applicable to him on the effective date of his membership in the Retirement System to the monthly compensation earnable by him on said date, together with interest on said amount at the rate of interest being used from time to time under the retirement system.

The board of supervisors shall provide by ordinance the time and manner for making said contributions and for the crediting of such service as city service.

#### **A8.521 CREDIT FOR CERTAIN MILITARY SERVICE**

Notwithstanding any other provisions of this charter, any member who was serving in the armed forces of the United States or the State of California during the time of war or any emergency lawfully declared by the President of the United States, who had standing on an eligible list for appointment to a permanent position and was reached for certification to a permanent position while so serving, shall have the right to elect to make contributions as provided in this section and to receive credit in this system as city service for all or any part of the time after he was so

reached during which he was so serving; provided, however, that no member shall have such right unless he entered into employment with the city and county as a result of such certification made in accordance with the provisions of Section 8.361 of the charter within one year after his discharge from such armed forces.

Any member who elects, pursuant to this section, to make contributions and receive credit for such time, shall contribute to the retirement system an amount determined by applying the rate of contribution first applicable to him on the effective date of his membership in the retirement system to the monthly compensation earnable by him on said date, together with interest on said amount at the rates of interest being used from time to time under the retirement system.

The board of supervisors shall provide by ordinance the time and manner for making said contributions and for the crediting of such service as service credit.

#### **A8.522 EARLY RETIREMENT BENEFITS**

##### **A8.522-1 EARLY RETIREMENT BENEFITS**

Under this section, certain employees may become eligible to receive early retirement benefits. These early retirement benefits shall only apply to members who are certified under section A8.401 and who retire with an effective date of retirement within the time limit established by the notice in Section A8.401-6. As used in this section, the term "early retirement benefits" means increasing an eligible employee's age and credited service for both qualification and benefit computation purposes by three (3) years but shall not apply to the disability or vesting benefit provisions or computations under Charter Sections A8.509(c), A8.509(f), A8.587-3 and A8.587-6. Early retirement benefits are available to members under Charter Sections A8.509 and A8.587, subject to any limitations in those sections, and also subject to the limits in Section A8.401 and herein but, are not available to members covered by Charter sections A8.559, A8.585, A8.586, A8.588, A8.595, A8.596, A8.597 or A8.598 or other Charter sections. (Added November 2003)



**A8.522-2 RECALCULATION/EFFECTIVE DATE OF RETIREMENT**

Any employee who separated from employment due to layoff between March 1, 2003 and June 30, 2005, and is later determined to be eligible for early retirement benefits, may have his or her retirement allowance recalculated as of his or her date of retirement. Any employee who separated from employment due to layoff between March 1, 2003 and June 30, 2005, but did not retire, and who is later determined to be eligible for early retirement benefits, may retire after notice in Section A8.401-6 but no earlier than the first day of the month in which he or she applies for retirement. Any such employee who withdrew his or her accumulated contributions shall redeposit in the retirement fund the amount, plus interest, refunded to him or her. (Added November 2003)

**A8.522-3 RETURN TO SERVICE**

Any employee who retires under any early retirement program and later reenters City and County service as a member of the retirement system shall forfeit any service or age credit received under the early retirement program. (Added November 2003)

**A8.522-5 COMPLIANCE WITH TAX LAWS**

The early retirement benefits under this section will be limited by Section 415 of the Internal Revenue Code of 1986, as amended from time to time, and no early retirement benefits under this section will be effective if they have an adverse effect on the tax qualified status of the retirement system under Section 401 of the Internal Revenue Code of 1986, as amended from time to time. (Added November 2003)

**A8.525 CONTRIBUTIONS TO RETIREMENT FUND**

The city and county shall contribute jointly with the members of the retirement system to meet the liabilities accruing under the system because of service rendered to the city and county by persons after becoming members of the system. Members of the system shall contribute not to exceed 10 percent of their salaries or wages, provided that members may, at their option, elect to contribute at rates in addition to those fixed as normal by the retirement board. The

city and county shall contribute an amount equal to normal contributions of members as provided for in the preceding sentence, but the city and county shall not contribute any amount because of additional contributions by members.

**A8.526 COST OF LIVING ADJUSTMENT IN ALLOWANCES**

(a) Each retirement or death allowance which is not subject to change when the salary rate of any member is changed and which is payable to or on account of any member who has retired or died prior to July 1, 1967, except such allowances payable to or on account of persons who retired or died prior to July 1, 1947, as members under Section 8.507, but including death allowances payable under Section 8.561 which are not subject to change when the salary rate of any member is changed, shall be increased for time on and after July 1, 1968, by the percentage set forth in the following table opposite the fiscal year in which said allowance became effective, said percentage to be applied to the allowance payable to the individual who was receiving the allowance on July 1, 1968, (a) exclusive of the annuity provided by additional contributions and (b) prior to reduction pursuant to Subsection (a) of Section 8.514:

Fiscal year in which allowance became effective		Percentage
All years prior to July 1, 1959		16%
July 1, 1959 to June 30, 1960		14%
July 1, 1960 to June 30, 1961		12%
July 1, 1961 to June 30, 1962		10%
July 1, 1962 to June 30, 1963		8%
July 1, 1963 to June 30, 1964		6%
July 1, 1964 to June 30, 1965		4%
July 1, 1965 to June 30, 1966		2%
July 1, 1966 to June 30, 1967		1%

(1) Funds, necessary for the payment of such increases in allowances payable to, or on account of, members who retired or died as members under charter Sections 8.507 or 8.509, shall be provided from the city's accumulated contributions held by the system on account of miscellaneous members under Section 8.509.



(2) Funds, necessary for the payment of such increases in allowances to, or on account of, members who retired or died as members under charter Sections 8.543 or 8.544, shall be provided from the city's accumulated contributions held by the system on account of police members under Section 8.544.

(3) Funds, necessary for the payment of such increases in allowances to, or on account of, members who retired or died as members under charter Sections 8.567 or 8.568, shall be provided from the city's accumulated contributions held by the system on account of fire members under Section 8.568.

The necessary funds shall be transferred on the effective date of this section from said accumulated contributions to the accumulated contributions held by the system to meet the obligations of the city and county on account of benefits that have been granted and which are based on services rendered as members. The contribution being required of the city and county currently, as percentages of salaries of persons who are members under Sections 8.509, 8.544 and 8.568, shall be increased to percentages determined by the actuary as necessary to replace the accumulated contributions so transferred.

(b)(1) The retirement board shall determine, prior to April 1 of each year, the percentage of increase or decrease in the cost of living during the preceding calendar year or years, as shown by the then current Consumer Price Index, All Items, San Francisco (1957-59=100), issued by the U.S. Bureau of Labor Statistics and published in the Monthly Labor Review or a successor publication. The cost of living adjustments as hereinafter provided shall be based on the percentage of such increase or decrease.

(2) Notwithstanding any other charter or ordinance provision governing the retirement system, every retirement or death allowance payable to, or on account of, any member who retires or dies as a member of the system or who has retired or died as such a member, except allowances subject to change when the salary rate of any member is changed, shall be increased or decreased as of July 1, 1969, and on July 1, of each succeeding year, subject to the provisions of this Subsection (b), by a percentage of the allowance established on July 1, 1968, after any increase under Subsection (a) of this section or on the effective date of such allowance, whichever is later, as payable to the individual who is receiving the allowance on the date of any such adjustment (a) exclusive of the annuity provided by additional contributions, and prior to modification pursuant to Subsection (f) of Section 8.514. On July 1, 1969, the percentage of increase in each such allowance shall be the percentage which is determined by the retirement board to approximate to the nearest one percent, the percentage of increase in the cost of living during the preceding calendar year. On July 1, 1970, and on July 1 of each succeeding year, the percentage of increase or decrease in each such allowance shall be the percentage which is determined by the retirement board to approximate to the nearest one percent of increase or decrease in the cost of living in the calendar year or years since January 1, 1969, or since January 1 of the year in which the last such cost of living adjustment in allowances was made, whichever is later. Such adjustment in any year shall not exceed two percent of such allowance; provided, however, that no allowance shall be reduced below the amount being received by the member or his beneficiary on July 1, 1968, or on the effective date he began to receive the allowance, whichever is later.

*[A8.526 continues on page 57.]*

*[A8.526 continues on page 57.]*

(3) Commencing with the calendar year 1982, if the percentage of increase or decrease in the cost of living in any calendar year, as determined to the nearest one percent by the retirement board, were to exceed two percent as compared with the cost of living in the next preceding calendar year, the percentage of increase or decrease in the cost of living in excess of two percent, shall be accumulated to provide increases or decreases in the cost of living in each succeeding calendar year.

(4) Any such increase in allowances which are not funded by such allocations of such earnings, shall be funded by contributions of members under Sections 8.507, 8.509, 8.544, 8.568, 8.584, 8.586 and 8.588, and by contributions of the city, which shall be at rates which are in addition to the rates of contribution otherwise provided by charter or ordinance, provided that a member's rate of contribution shall not exceed one-half of one percent of his monthly compensation. The contributions made under this section by any member, shall be credited together with regular interest thereon to his individual account and shall be subject to the same charter and ordinance provisions relating to accumulated contributions of the member, including withdrawal and death benefits other than death allowances, provided, however, that upon his retirement or death, such accumulated contributions and interest shall not be applied to provide a part of the retirement benefits payable to him or the death allowance benefits payable on account of his death otherwise provided by charter or ordinance, but instead shall be held, together with the accumulated contributions made by the city pursuant to this Subsection (b), with interest thereon, to provide the benefits under this Subsection (b).

(5) The rates of contribution of members and the city, as provided herein, shall be fixed by the retirement board from time to time as it determines necessary.

#### **A8.526-1 SUPPLEMENTAL COST OF LIVING BENEFIT**

Starting on July 1, 1997, the Retirement Board shall establish in the Retirement Fund a Reserve Account. Funds in this Reserve Account shall be used to provide supplemental cost of living benefit adjustments to retirement allowances in addition to cost of living adjustments now provided for in the

Charter. Funds placed in this Reserve Account shall consist of all earnings of the Retirement Fund in the previous fiscal year which are in excess of the expected earnings on the actuarial value of the assets. The expected earnings are the earnings projected by the actuarial assumption for return on assets that was in place for that fiscal year. The maximum amount of funds to be placed in this Reserve Account shall not exceed the amount of funds projected to be necessary to fund benefits provided pursuant to this section for that fiscal year and the following two fiscal years.

The funds in this Reserve Account shall be used solely to provide supplemental cost of living benefit adjustments as follows:

(a) On July 1, 1997 and July 1 of each succeeding year, if there are sufficient funds in this Reserve Account, each retirement allowance or death allowance payable on account of a member who died, including retirement allowances subject to change when the salary rate of a member is changed, shall be increased by an amount equal to three percent (3%) of the allowance, less the amount of any cost of living adjustment provided pursuant to Section 8.526 and less the amount of any cost of living adjustment, payable in that fiscal year, which is the result of a change in the salary of the member.

(b) On July 1, 1997, if there are sufficient funds in this Reserve Account, each retirement allowance payable to or account of a member who was retired on or before December 31, 1979 as a member under Sections 8.507 or 8.509 or 8.584 shall be increased by a monthly amount equal to \$3 for each complete year of retirement. In computing years of retirement, the Retirement System shall count completed fiscal years between the member's effective date of retirement and June 30, 1997.

(c) On and after June 30, 2003, any supplemental cost of living benefit adjustment, once paid to a member, shall not be reduced thereafter.

(d) On and after June 30, 2003, the Reserve Account set forth in this section shall be used to finance only the increase in the supplemental cost of living benefit adjustments for the next ensuing fiscal year as set forth in section (a). If there are insufficient funds in the Reserve Account to pay the increase in the supplemental cost of living benefit adjustments for the next ensuing fiscal year, then the increase in the supplemental cost of living benefit adjustments for that

fiscal year shall not be paid. However, any excess earnings as defined in this section shall be accumulated until an amount sufficient to make one fiscal year's increase in the supplemental cost of living benefit adjustments is reached. (Added November 1996; amended March 2002)

#### **A8.527 COMMUNITY PROPERTY RIGHTS**

Subject to the vested rights rule, the board of supervisors is empowered to enact, by a vote of three-fourths of its members, ordinances to amend the provisions of the retirement system to conform with the community property provisions of Civil Code Sections 4800 and 4800.8, provided that the board of supervisors shall first secure, through the retirement board, an actuarial report of the cost and effect of any such change and provided further that any such ordinances shall not increase overall retirement system benefits costs.

#### **A8.530 RETIREMENT—MISCELLANEOUS OFFICERS AND EMPLOYEES PRIOR TO JULY 1, 1947**

Every retirement allowance payable by the San Francisco City and County Employees' Retirement System, for time commencing on January 1, 1950, to or on account of any person who was retired prior to July 1, 1947, as a member of said system under Section 8.507, is hereby increased by the amount of \$25 per month, provided such member was entitled to be credited under the retirement system with at least 20 years of service upon which the retirement allowance was determined at retirement. If the member was entitled to be credited with less than 20 years of such service, then said monthly increase shall be an amount which shall bear the same ratio to \$25 that the service with which the member was entitled to be credited at effective date of retirement, bears to 20 years. This section does not give any member retired prior to January 1, 1950 or his successors in interest, any claim against the city and county for any increase in any retirement allowance paid or payable for any time prior to January 1, 1950. If a member elected at retirement to have his retirement allowance modified under Options 2 or 3, provided by ordinance, and if his beneficiary is living on January 1, 1950, the increase in his allowance shall be modified under the option elected at retirement, and on the basis of current ages, mortality tables and interest rate. If the

beneficiary of such a person who elected at retirement to have his allowance modified under one of said options, is not living on January 1, 1950, or if the retired member is not living on January 1, 1950, and the beneficiary is receiving the modified retirement allowance, then the allowance shall be increased as provided herein for persons who did not elect an option.

The increase in the retirement allowance shall be apportioned between service rendered prior to the entry of the member into the retirement system and service rendered as a member, in the same proportion that such prior and current service respectively, bears to the total service credited at retirement. Contributions to the retirement system, necessary for the payment of the increases in the retirement allowances provided in this section, shall be provided, with respect to the portion of the benefit based on service rendered as members, from the reserves held by the retirement system on account of miscellaneous members, the necessary amount being transferred upon January 1, 1950, from said reserves to the reserves held by the retirement system to meet the obligations, on account of benefits that have been granted and on account of prior service of members. The contribution being required of the city currently, as percentages of salaries of persons who are members under Section 8.509, shall be increased to percentages determined by the actuary as necessary to replace the reserves so transferred. Contributions to the retirement system, necessary for the payment of said increases with reference to prior service, shall be paid to the system by the city and county by annual appropriations, provided that such appropriation for any year shall not be less than the amount disbursed during that year on account of said increases.

#### **A8.531 INCREASING RETIREMENT ALLOWANCES OF MISCELLANEOUS OFFICERS AND EMPLOYEES RETIRED PRIOR TO JULY 1, 1947**

Every retirement allowance payable by the San Francisco City and County Employees' Retirement System, for time commencing on February 1, 1953, to or on account of any person who was retired prior to July 1, 1947, as a member of said system under Section 165 of the charter of 1932, as amended, is hereby increased by the amount of \$25 per month, provided such member was entitled to be credited under the retirement system with at least 20 years of



service upon which the retirement allowance was determined at retirement. If the member was entitled to be credited with less than 20 years of such service, then said monthly increase shall be an amount which shall bear the same ratio to \$25 that the service with which the member was entitled to be credited at effective date of retirement, bears to 20 years. This section does not give any member retired prior to February 1, 1953, or his successors in interest, any claim against the city and county for any increase in any retirement allowance paid or payable for time prior to February 1, 1953. If a member elected at retirement to have his retirement allowance modified under Options 2 or 3, provided by ordinance, and if his beneficiary is living on February 1, 1953, the increase in his allowance shall be modified under the option elected at retirement, and on the basis of current ages, mortality tables and interest rate. If the beneficiary of such a person who elected at retirement to have his allowance modified under one of said options is not living on February 1, 1953, or if the retired member is not living on February 1, 1953, and the beneficiary is receiving the modified retirement allowance, then the allowance shall be increased as provided herein for persons who did not elect an option.

The increase in the retirement allowance shall be apportioned between service rendered prior to the entry of the member into the retirement system and service rendered as a member, in the same proportion that such prior and current service respectively, bears to the total service credited at retirement. Contributions to the retirement system necessary for the payment of the increase in the retirement allowances provided in this section, shall be provided, with respect to the portion of the benefit based on service rendered as members, from the reserves held by the retirement system on account of miscellaneous members, the necessary amount being transferred upon February 1, 1953, from said reserves to the reserves held by the retirement system to meet the obligations on account of benefits that have been granted and on account of prior service of members. The contribution being required of the city currently, as percentages of salaries of persons who are members under Section 8.509, shall be increased to percentages determined by the actuary as necessary to replace the reserves so transferred. Contributions to the retirement system necessary for the payment of said increases

with reference to prior service, shall be paid to the system by the city and county by annual appropriations, provided that such appropriation for any year shall not be less than the amount disbursed during that year on account of said increases.

#### **A8.532 INCREASING RETIREMENT ALLOWANCES OF MISCELLANEOUS OFFICERS AND EMPLOYEES RETIRED PRIOR TO JULY 1, 1952**

Every retirement allowance payable by the San Francisco City and County Employees' Retirement System, for time commencing on April 1, 1956, to or on account of any person who has retired prior to July 1, 1952, as a member of said system under Section 165 of the Charter of 1932, as amended, is hereby increased by the amount of \$25 per month, provided such member was entitled to be credited under the retirement system with at least 20 years of service upon which the retirement allowance was determined at retirement. If the member was entitled to be credited with less than 20 years of such service, then said monthly increase shall be an amount which shall bear the same ratio to \$25 that the service with which the member was entitled to be credited at effective date of retirement, bears to 20 years. This section does not give any member retired prior to April 1, 1956, or his successors in interest, any claim against the city and county for any increase in any retirement allowances paid or payable for time prior to April 1, 1956. If a member elected at retirement to have his retirement allowance modified under Option 2 or 3, provided by ordinance, and if the member and his beneficiary are living on April 1, 1956, the increase in the allowance shall be modified under the option elected at retirement, and on the basis of current ages, mortality tables and interest rate. If the beneficiary of such a person who elected at retirement to have his allowance modified under one of said options is not living on April 1, 1956, or if the retired member is not living on April 1, 1956, and the beneficiary is receiving the modified retirement allowance, then the allowance shall be increased as provided herein for persons who did not elect an option.

The increase in the retirement allowance shall be apportioned between service rendered prior to the entry of the member into the retirement system and service rendered as a member, in the same proportion that such prior and current service respectively, bears

to the total service credited at retirement. Contributions to the retirement system necessary for the payment of the increases in the retirement allowances provided in this section, shall be provided, with respect to the portion of the benefit based on service rendered as members, from the reserves held by the retirement system on account of miscellaneous members, the necessary amount being transferred upon April 1, 1956, from said reserves to the reserves held by the retirement system to meet the obligations on account of benefits that have been granted and on account of prior service of members. The contribution being required of the city currently, as percentages of salaries of persons who are members under Section 8.509 shall be increased to percentages determined by the actuary as necessary to replace the reserves so transferred. Contributions to the retirement system necessary for the payment of said increases with reference to prior service, shall be paid to the system by the city and county by annual appropriations, provided that such appropriation for any year shall not be less than the amount disbursed during that year on account of said increases.

**A8.533 INCREASING RETIREMENT ALLOWANCES OF MISCELLANEOUS OFFICERS AND EMPLOYEES RETIRED PRIOR TO JULY 1, 1947**

Every retirement allowance payable by the San Francisco City and County Employees' Retirement System, for time commencing on March 1, 1964, to or on account of any person who was retired prior to July 1, 1947, as a member of said system under Section 8.507, formerly Section 165 of the charter of 1932, as amended, is hereby increased by the amount of \$25 per month, provided such member was entitled to be credited under the retirement system with at least 20 years of service upon which the retirement allowance was determined at retirement. If the member was entitled to be credited with less than 20 years of service, then said monthly increase shall be an amount which shall bear the same ratio to \$25, that the service with which the member was entitled to be credited at the effective date of his retirement, bears to 20 years. This section does not give any member retired prior to March 1, 1964, or his successor in interest, any claim against the city and county for any increase in any retirement allowance paid or payable for the time prior to March 1, 1964. If a member

elected at retirement to have his retirement allowance modified under Options 2 or 3, provided by ordinance, and if both he and his beneficiary are living on March 1, 1964, the increase in his allowance shall be modified under the option elected at retirement, and on the basis of current ages, mortality tables and interest rates. If the beneficiary of such a person who elected at retirement to have his allowance under one of said options is not living on March 1, 1964, or if the retired member is not living on March 1, 1964, and the beneficiary is receiving the modified retirement allowance, then the allowance shall be increased as provided herein for persons who did not elect an option.

The increase in the retirement allowance shall be apportioned between service rendered prior to the entry of the member into the retirement system, and service rendered as a member, in the same proportion that such prior and current service respectively, bears to the total service credited at retirement. Contributions to the retirement system necessary for the payment of the increases in the retirement allowances provided in this section, shall be provided, with respect to the portion of the benefit based on service rendered as members, from the reserves held by the retirement system on account of miscellaneous members, the necessary amount being transferred upon March 1, 1964, from said reserves to the reserves held by the retirement system to meet the obligations on account of benefits that have been granted and on account of prior service of members.

The contribution being required of the city currently, as percentages of salaries of persons who are members under Section 8.509 shall be increased to percentages determined by the actuary as necessary to replace the reserves so transferred. Contributions to the retirement system necessary for the payment of said increases with references to prior services, shall be paid to the system by the city and county by annual appropriations, provided that such appropriation for any year shall not be less than the amount disbursed during that year on account of said increases.

**A8.534 INCREASING RETIREMENT ALLOWANCES OF MISCELLANEOUS OFFICERS AND EMPLOYEES RETIRED PRIOR TO JULY 2, 1952**

Every retirement allowance payable by the San Francisco City and County Employees' Retirement

System, from time commencing on February 1, 1957, to or on account of any person who was retired prior to July 2, 1952, as a member of said system under Section 8.509 formerly Section 165.2 of the charter of 1932, as amended, and to or on account of any person who was retired prior to July 2, 1952, but not prior to July 1, 1952, as a member of said system under Section 8.507, formerly Section 165 of the charter of 1932, as amended, is hereby increased by the amount of \$25 per month, provided such member was entitled to be credited under the retirement system with at least 20 years of service upon which the retirement allowance was determined at retirement. If the member was entitled to be credited with less than 20 years of such service, then said monthly increase shall be an amount which shall bear the same ratio to \$25 that the service with which the member was entitled to be credited at effective date of retirement, bears to 20 years. This section does not give any member retired prior to February 1, 1957, or his successors in interest, any claim against the city and county for any increase in any retirement allowance paid or payable for time prior to February 1, 1957. If a member elected at retirement to have his retirement allowance modified under Option 2 or 3, provided by ordinance, and if the member and his beneficiary are living on February 1, 1957, the increase in the allowance shall be modified under the option elected at retirement, and on the basis of current ages, mortality tables and interest rate. If the beneficiary of such a person who elected at retirement to have his allowance modified under one of said options is not living on February 1, 1957, or if the retired member is not living on February 1, 1957, and the beneficiary is receiving the modified retirement allowance, then the allowance shall be increased as provided herein for persons who did not elect an option.

The increase in the retirement allowance shall be apportioned between service rendered prior to the entry of the member into the retirement system and service rendered as a member, in the same proportion that such prior and current service respectively, bears to the total service credited at retirement. Contributions to the retirement system necessary for the payment of the increases in the retirement allowances provided in this section, shall be provided, with respect to the portion of the benefit based on

service rendered as members, from the reserves held by the retirement system on account of miscellaneous members, the necessary amount being transferred upon February 1, 1957, from said reserves to the reserves held by the retirement system to meet the obligations of the city and county on account of benefits that have been granted and on account of prior service of members. The contribution being required of the city and county currently as percentages of salaries of persons who are members under Section 8.509, shall be increased to percentages determined by the actuary as necessary to replace the reserves so transferred. Contributions to the retirement system necessary for the payment of said increases with references to prior service, shall be paid to the system by the city and county by annual appropriations, provided that such appropriation for any year shall not be less than the amount disbursed during that year on account of said increases.

#### **A8.535 INCREASING RETIREMENT ALLOWANCES OF MISCELLANEOUS OFFICERS AND EMPLOYEES RETIRED ON OR AFTER JULY 1, 1947, AND PRIOR TO APRIL 1, 1966**

Every retirement allowance payable to or on account of a member who retired under the provisions of Section 8.509 (formerly Section 165.2 of the charter of 1932) on or after July 1, 1947, and prior to April 1, 1966, is hereby increased for time commencing on the effective date of this section, hereby designated as the first day of the month next following ratification by the State Legislature, to the amount it would have been if such allowance had been computed, on the date such member's retirement allowance was first effective, as if "average final compensation" were defined as the average monthly compensation earned by a member during any three consecutive years of credited service in the retirement system in which his average compensation is the highest.

This section does not give any person retired under the provisions of said Section 8.509, or his successors in interest, any claim against the city and county for any increase in any retirement allowance paid or payable for time prior to the effective date of this section.



Any increase in any retirement allowance resulting from the calculation provided in this section shall be disregarded in connection with any adjustment of retirement allowances pursuant to the provisions of Section 8.526 (formerly Section 164.1 of the charter of 1932).

**A8.536 INCREASING RETIREMENT ALLOWANCES OF MISCELLANEOUS OFFICERS AND EMPLOYEES RETIRED ON OR AFTER JULY 1, 1947, AND PRIOR TO JULY 1, 1974**

(a) Every retirement allowance payable to or on account of a member who retired, for service under the provisions of Subsection (b) of Section 8.509 of this charter on or after July 1, 1947, and prior to July 1, 1974, after having attained the age of 60 years, is hereby increased for time commencing on July 1, 1974, to the amount it would have been if such allowances had been computed, on the date such retirement allowance was first effective, on the basis of two percent of such member's average final compensation for each year of credited service.

(b) Every retirement allowance payable to or on account of a member who retired, for service under the provisions of Subsection (b) of Section 8.509 of this charter on or after July 1, 1947, and prior to July 1, 1974, prior to having attained the age of 60 years is hereby increased for time commencing on July 1, 1974, to the amount it would have been if such allowance had been computed, on the date such retirement allowance was first effective, on the basis of the percent of such member's average final compensation for each year of credited service as is set forth in the following table opposite his age at retirement, taken to the preceding completed quarter year:

Age at Retirement	Percent for Each Year of Credited Service
55	1.5000
55¼	1.5250
55½	1.5500
55¾	1.5750
56	1.6000
56¼	1.6250
56½	1.6500
56¾	1.6750

Age at Retirement	Percent for Each Year of Credited Service
57	1.7000
57¼	1.7250
57½	1.7500
57¾	1.7750
58	1.8000
58¼	1.8250
58½	1.8500
58¾	1.8750
59	1.9000
59¼	1.9250
59½	1.9500
59¾	1.9750

In no event shall a member's retirement allowance, as increased under the provisions of paragraph (a) or (b) of this section, exceed 75 percent of his average final compensation.

(c) Every retirement allowance payable to or on account of a member who retired for disability under the provisions of Subsection (c) of Section 8.509 of this charter on or after July 1, 1947, and prior to July 1, 1974, is hereby increased for time commencing on July 1, 1974, to the amount it would have been if such allowance had been computed, on the date such retirement allowance was first effective as follows:

(1) On the basis of one and eight-tenths percent of such member's average final compensation for each year credited service, if such retirement allowance exceeds 40 percent of his said average final compensation;

(2) If such retirement allowance, as increased, does not exceed 40 percent of such member's average final compensation, the increase provided under this section shall be computed on the basis of one and eight-tenths percent of his average final compensation multiplied by the number of years of city-service which would be credited to him were such city-service to continue until attainment by him of the age of 60 years; provided, however, that such retirement allowance shall not exceed 40 percent of his said average final compensation.

With respect to members whose retirement allowances were first effective prior to January 1, 1972, "average final compensation" as used in this Section 8.536 shall mean the average monthly compensation earned by the member during any 12



consecutive months of credited service in the retirement system in which his average compensation is the highest.

This section does not give any person retired under the provisions of Section 8.509, or his successors in interest, any claim against the city and county for any increase in any retirement allowance paid or payable for time prior to July 1, 1974.

Any increase in any retirement allowance resulting from the recalculation provided for in this section, shall be disregarded in connection with any adjustment of retirement allowances pursuant to the provisions of Section 8.526 of this charter.

#### **A8.537 INCREASING RETIREMENT ALLOWANCES OF MISCELLANEOUS OFFICERS AND EMPLOYEES RETIRED UNDER SECTION 8.507 PRIOR TO JANUARY 1, 1972**

Every retirement allowance payable to or on account of a member who retired under the provisions of Section 8.507 (formerly Section 165 of the charter of 1932) prior to January 1, 1972, is hereby increased for time commencing on the effective date of this section, hereby designated as the first day of the month next following ratification by the State legislature, to the amount it would have been if such allowance had been computed, on the date such member's retirement allowance was first effective, as if the provisions of Section 8.509, as they exist on the effective date of this section, had been in effect and applicable to such member, and as if "average final compensation" were defined as the average monthly compensation earned by a member during any 12 consecutive months of credited service in the retirement system in which his average compensation is the highest.

This section does not give any person retired under the provisions of said Section 8.507, or his successors in interest, any claim against the city and county for any increase in any retirement allowance paid or payable for time prior to the effective date of this section.

Any increase in any retirement allowance resulting from the calculation provided in this section shall be disregarded in connection with any adjustment of retirement allowances pursuant to the provisions of

Section 8.526 (formerly Section 164.1 of the charter of 1932).

Section 8.537 does not authorize any decrease in any allowance from the amount being paid as of June 4, 1974.

#### **A8.538 INCREASING OF CERTAIN RETIREMENT ALLOWANCES IN EFFECT PRIOR TO JULY 1, 1977**

Every retirement allowance payable to a male person, or to the beneficiary of a male person, retired prior to July 1, 1977, as a member under the provisions of Sections 8.507, 8.509, 8.544 or 8.568 and subject to an optional modification pursuant to an election exercised under Section 16.75 of the San Francisco Administrative Code is hereby increased for time commencing January 1, 1978, to the amount it would have been if such allowance had been computed, on the date such allowance was first effective, on the basis of the mortality tables applicable to the retirement system on January 1, 1978.

This section does not give any person retired under the provisions of Sections 8.507, 8.509, 8.544 or 8.568, or such person's successors in interest, any claim against the city and county for any increase in any retirement allowance paid or payable for time prior to January 1, 1978.

Any adjustment of retirement allowances made pursuant to the provisions of Section 8.526 of this charter for time after June 30, 1978, shall be based upon the amount of the original retirement allowance plus the amount of the increase to be applied by the provisions of this section.

#### **A8.539 INCREASING RETIREMENT ALLOWANCES OF MISCELLANEOUS OFFICERS AND EMPLOYEES RETIRED PRIOR TO JULY 2, 1980**

Every retirement allowance payable by the San Francisco City and County Employees' Retirement System, from time commencing on July 1, 1982 to or on account of any person who was retired prior to July 2, 1980, as a member of said system under Section 8.509 formerly Section 165.2 of the charter of 1932, as amended; and to or on account of any person who was retired prior to July 2, 1980, as a member of said system under Section 8.507, formerly Section 165 of

the charter of 1932, as amended; and to or on account of any person who was retired prior to July 2, 1980, as a member of said system under Sections 8.584, 8.586 and 8.588 of this charter, is hereby increased by the amount of \$25 per month, provided such member was entitled to be credited under the retirement system with at least 20 years of service upon which the retirement allowance was determined at retirement. If the member was entitled to be credited with less than 20 years of such service, then said monthly increase shall be an amount which shall bear the same ratio of \$25 that the service with which the member was entitled to be credited at effective date of retirement, bears to 20 years. This section does not give any member retired prior to July 1, 1982 or his successors in interest, any claim against the city and county for any increase in any retirement allowance paid or payable for time prior to July 1, 1982.

Contributions to the retirement system necessary for the payment of the increases in the retirement allowances provided in this section, shall be provided, from the reserves held by the retirement system on account of miscellaneous members, cost of living benefits, the necessary amount being transferred upon July 1, 1982, from said reserves to the reserves held by the retirement system to meet the obligations of the city and county on account of benefits that have been granted and on account of prior service of members. The contributions being required of the city and county currently as percentages of salaries of persons who are members under Sections 8.509, 8.584, 8.586, and 8.588 shall be increased to percentages determined by the actuary as necessary to replace the reserves so transferred.

#### **A8.539-1 INCREASING RETIREMENT ALLOWANCES OF MISCELLANEOUS OFFICERS AND EMPLOYEES RETIRED PRIOR TO JULY 2, 1985**

Commencing on July 1, 1987, every retirement allowance payable by the San Francisco City and County Employees' Retirement System, to or on account of any person who was retired prior to July 2, 1985 as a member of said system under Sections 8.507, 8.509, 8.584, 8.586 or 8.588 of this charter, is hereby increased by the amount of \$50.00 per month, provided such member had retired prior to July 2, 1961. If the member had retired after July 1, 1961, then said monthly increase shall be an amount which

shall bear the same ratio to \$50.00 that the number of years the member has been retired bears to twenty-five (25) years.

In computing years of retirement, the retirement system shall count completed fiscal years between the member's effective date of retirement and June 30, 1986.

This section does not give any member retired prior to July 1, 1987 or his successors in interest, any claim against the city and county for any increase in any retirement allowance paid or payable for time prior to July 1, 1987.

#### **A8.539-2 INCREASING RETIREMENT ALLOWANCES OF MISCELLANEOUS OFFICERS AND EMPLOYEES RETIRED PRIOR TO JULY 2, 1988**

Commencing on July 1, 1990, every retirement allowance payable by the San Francisco City and County Employees' Retirement System, to or on account of any person who was retired prior to July 2, 1988 as a member of said system under sections 8.507, 8.509, 8.584, 8.586 or 8.588 of this charter, is hereby increased by the amount of \$50.00 per month, provided such member had retired prior to July 2, 1964. If the member had retired after July 1, 1964, then said monthly increase shall be an amount which shall bear the same ratio to \$50.00 that the number of years the member has been retired bears to twenty-five (25) years.

In computing years of retirement, the retirement system shall count completed fiscal years between the member's effective date of retirement and June 30, 1989.

This section does not give any member retired prior to July 1, 1990 or his successors in interest, any claim against the city and county for any increase in any retirement allowance paid or payable for time prior to July 1, 1990.

#### **A8.539-3 INCREASING RETIREMENT ALLOWANCES OF MISCELLANEOUS OFFICERS AND EMPLOYEES RETIRED PRIOR TO JULY 2, 1991**

Commencing on July 1, 1993, every retirement allowance payable by the San Francisco City and County Employees' Retirement System, to or on account of any person who was retired prior to July 2, 1991 as a member of said system under sections

8.507, 8.509, 8.584, 8.586 or 8.588 of this charter, is hereby increased by the amount of \$75.00 per month, provided such member had retired prior to July 2, 1967. If the member had retired after July 1, 1967, then said monthly increase shall be an amount which shall bear the same ratio to \$75.00 that the number of years the member has been retired bears to twenty-five (25) years.

In computing years of retirement, the retirement system shall count completed fiscal years between the member's effective date of retirement and June 30, 1992.

This section does not give any member retired prior to July 1, 1993 or his or her successors in interest, any claim against the City and County of San Francisco for any increase in any retirement allowance paid or payable for time prior to July 1, 1993.

#### **A8.540 MEMBERS OF THE POLICE DEPARTMENT ON JANUARY 8, 1932**

Persons who are members of the police department on the eighth day of January, 1932, shall become members of the retirement system on that date, subject to the following provisions in addition to the provisions contained in Sections 3.670, 3.672, 8.500, 8.502, 8.510, 8.511, 8.520, and 8.560 of this charter:

(a) Any member of the department who has arrived or shall arrive at the age of 62 years, and who has completed 30 years of continuous service as an active member of the department next preceding his retirement, may retire from service at his option, provided that retirement shall be compulsory at the age of 70 years. Such retired member shall receive a monthly pension, payable throughout his life, equal to one-half of the amount of the monthly salary attached to the rank held by him three years prior to the date of his retirement, hereinafter referred to in this section and Section 8.542 as a "pension."

Before the first payment of the pension is made, such retired member may elect to receive the actuarial equivalent of his pension, partly in a pension to be received by him throughout his life, and partly in other benefits payable after his death to another person or persons, provided that such election shall be subject to all the conditions prescribed by the board of supervisors to govern similar elections by other members of the retirement system, including the character and amount of such other benefits.

(b) Any member of the department who shall become physically disabled by reason of any bodily injury received in the performance of his duty, may be retired upon a monthly pension, as defined in subdivision (a), of this section, payable throughout his life. In case his disability shall cease, his pension shall cease, and he shall be restored to the service in the rank he occupied at the time of his retirement.

(c) The family of any member of the department who may be killed or injured while in the performance of his duties, and who shall have died within 3 years from the date of such injury as a result of such injury, shall receive the following benefits and the receipt by such member of a pension under this section during his lifetime shall not bar said family from such benefits:

First, should the decedent leave a widow to whom he was married prior to the date of the injury resulting in death, such widow shall, as long as she may live and remain unmarried, be paid a monthly pension equal to one-half of the salary attached to the rank held by the decedent at the time of his said injury; provided, however, that should said widow die, leaving a child or children under the age of 16 years, said pension shall continue to such child or such children collectively until the youngest child arrives at the age of 16 years.

Second, should the decedent leave no widow, but leave an orphan child or children under the age of 16 years, such child or children collectively shall receive a monthly pension equal to one-half of the salary attached to the rank held by their father at the time of his said injury until the youngest attains the age of 16 years.

Third, should the decedent leave no widow and no orphan child or children, but leave a parent or parents depending solely upon him for support, such parents, so depending, shall collectively receive a monthly pension equal to one-half of the salary attached to the rank held by the decedent at the time of his said injury during such time as the retirement board may unanimously determine its necessity.

(d) A sum equal to the contributions, with interest, made by persons who become members of the retirement system under this section to any other pension fund, shall be paid by the city and county to the retirement system. Each member of the department shall contribute \$2 per month to the retirement system to be applied on the cost of the benefits at death and



retirement provided under this section. Should a member be separated from city service through any cause other than death or retirement, then such contributions with interest shall be refunded to him under such conditions as may be fixed by the board of supervisors for the refund of contributions of other members of the retirement system.

(e) When any member of the department shall die from natural causes and before retirement, there shall be paid to his estate or beneficiary a death benefit, the amount of which and the conditions for the payment of which shall be determined in the manner prescribed by the board of supervisors for the death benefit of other members of the retirement system.

Upon the death of a member after retirement and regardless of the cause of death, a death benefit shall be paid to his estate or designated beneficiary, the amount of which and the conditions for payment of which shall be determined in the manner prescribed by the board of supervisors for the payment of a similar death benefit upon the death of other retired members.

(f) In addition to the other contributions required of the city and county under the retirement system, the city and county shall contribute to the retirement system during each fiscal year a sum which, together with the members' contributions provided for in subdivision (d) of this section, shall be equal to the liabilities accruing under the retirement system because of the service rendered during such year by persons becoming members on the 8th day of January, 1932, under this section. If, subsequent to such fiscal year, it shall be determined that such contributions by the city and county, together with the members' contributions, was not sufficient to meet such liability, then the city and county shall make such additional contributions as may be necessary to make up the deficit.

(g) No benefits shall be provided under the retirement system for, nor shall any contribution be required of, persons who become members of the retirement system under this section, in addition to the benefits specifically provided and contributions specifically required in such section.

That portion of any pension payable because of the death or retirement of any such person which is provided by contributions of the city and county shall

be reduced, in the manner fixed by the board of supervisors, by the amount of any benefits payable to or on account of such person, under the workers' compensation insurance and safety law of the State of California.

(h) Persons who were members of the police department on the eighth day of January, 1932, shall have the option, to be exercised in writing on or before the first day of January, 1936, of becoming members of the retirement system under the provisions of Section 8.543, which applies to persons who become members of the department after the 8th day of January, 1932. If such persons shall affirmatively exercise such option within the time specified, then on and after the first day of the month next following such affirmative action, referred hereinafter in this subdivision (h) as "effective date," they shall not receive any benefit or make any contribution under this section, but on and after said effective date shall be members of the retirement system and shall receive benefits and make contributions on the same basis as persons who become members of the department after the 8th day of January, 1932, provided that a pension for each person affirmatively exercising such option shall be payable on account of service rendered to the city and county prior to said effective date, by such members' contributions made prior to such effective date, with interest, and by contributions of the city and county, which pension shall be the same percentage regardless of the age of retirement, of his final compensation, as defined by the board of supervisors, for each year of such service, as the contributions of the member and the city and county are calculated to provide upon retirement at age 62 for each year of service rendered as a member of the retirement system.

#### **A8.541 SALARY BASE, FOR RETIREMENT PURPOSES, OF FORMER RANK OF CORPORAL OF POLICE**

For all purposes of the retirement system, and notwithstanding any other provisions of the charter, the monthly salary attached to the former rank of corporal, heretofore held by a member of the police department, shall henceforth be deemed to be an amount equal to the maximum monthly salary attached to the rank of police officer, plus three-fourths of the difference between such amount and the monthly salary attached to the rank of sergeant.



**A8.542 POLICE DEPARTMENT—RETIRED MEMBERS AND BENEFICIARIES ON JANUARY 8, 1932**

Any member of the police department who shall have been retired and shall be receiving a pension on the eighth day of January, 1932, and any widow, child, children or parents of a deceased member of the department who shall be receiving a pension on the 8th day of January, 1932, shall continue to receive such pension, subject to the provisions of Section 8.540 governing the payment of pensions. Such pension shall be paid by the retirement system, but no other benefits shall be provided for such retired members, widows, children or parents, except that upon the death of any such member who is receiving a pension under this section and regardless of the cause of death, a death benefit shall be paid to his estate or designated beneficiary, the amount of which shall be determined in the manner prescribed by the board of supervisors.

**A8.543 MEMBERS OF THE POLICE DEPARTMENT—JANUARY 8, 1932 TO JULY 1, 1945**

Persons who become members of the police department after the eighth day of January, 1932, and prior to July 1, 1945, shall become members of the retirement system subject only to the following provision in addition to the provisions contained in Sections 3.670, 3.672, 8.500, 8.501, 8.502, 8.510, 8.511, 8.520, and 8.525 and 8.560 of this charter: No such member of the retirement system shall be retired, except in case of disability incapacitating him for the performance of his duties, unless he shall have attained the age of 62 years, and completed 25 years of continuous service, except that retirement shall be compulsory at the age of 70 years. It may be provided, however, under such retirement system, that members may retire after 30 years of continuous service, the benefits of retirement in such cases to be determined, because of retirement at an age below 62, in accordance with the tables recommended by the actuary and approval by said retirement board.

**A8.544 MEMBERS OF THE POLICE DEPARTMENT AFTER JULY 1, 1945**

Members of the police department, as defined in Section 8.545, who are members of the retirement system under Sections 8.507, 8.540 or 8.543 of the

charter on the first day of July, 1945, and persons who become members of said department after said date, shall be members of the retirement system under this Section 8.544 on and after said date, and shall be subject to the following provisions of Section 8.544 and Sections 8.545, 8.546, 8.547, 8.548, 8.549, 8.551, 8.552, 8.553, 8.554, 8.555, 8.556, 8.557, 8.558, and 8.559 (which shall apply only to members under Section 8.544 unless otherwise indicated) in addition to the provisions contained in Sections 3.670, 3.671, 8.500, 8.510, and 8.520 of this charter notwithstanding the provisions of any other section of the charter. Members of the said department who are members of the retirement system under Section 8.540 of the Charter on July 1, 1949, however, shall have the option to be exercised in writing on a form furnished by the retirement system and to be filed at the office of said system not later than 90 days after July 1, 1949, of being members of the system under Section 8.540 instead of Section 8.544, the election under said option to be effective on said date. In like manner, members of the said department who are members of the retirement system under Section 8.507 or 8.543 of the charter shall have the option, to be exercised in writing on a form furnished by the retirement system, and to be filed at the office of said system not later than 90 days after July 1, 1949, of being members of the system under Sections 8.507 or 8.543, respectively, instead of Section 8.544 the election to be effective on said date, provided, that members who are absent by reason of service in the armed forces of the United States or by reason of any other service included in section 8.520 of the charter, on the effective date of the amendment shall have the same option of electing to be members under Sections 8.507, 8.540, or 8.543, as the case may be, instead of Section 8.544, until 90 days after return to service in the police department.

On and after July 1, 1949, the persons who affirmatively exercise said option, shall continue to be members of the system under Sections 8.507, 8.540, or 8.543, respectively, and shall not be subject to any of the provisions of Section 8.544.

**A8.545 DEFINITIONS**

The following words and phrases as used in this section, unless a different meaning is plainly required by the context shall have the following meanings:

“Retirement allowance,” “death allowance,” or

"allowance" shall mean equal monthly payments, beginning to accrue upon the date of retirement, or upon the day following the date of death, as the case may be and continuing for life unless a different term of payment is definitely provided by the context.

"Compensation," as distinguished from benefits under the Workers' Compensation Insurance and Safety Act of the State of California, shall mean the remuneration payable in cash, by the city and county, without deduction except for absence from duty, for time during which the individual receiving such remuneration is a member of the police department, but excluding remuneration paid for overtime.

"Compensation earnable" shall mean the compensation which would have been earned had the member received compensation without interruption throughout the period under consideration at the rates of remuneration attached at that time to the ranks or positions held by him during such period, it being assumed that during any absence he was in the rank or position held by him at the beginning of the absence, and that prior to becoming a member of the police department, he was in the rank or position first held by him in such department.

"Benefit" shall include "allowance," "retirement allowance," "death allowance" and "death benefit."

"Final compensation" shall mean the monthly compensation earnable by a member at the time of his retirement, or death before retirement, as the case may be, at the rate of remuneration attached at that time to the rank or position which said member held, provided that said member has held said rank or position for at least one year immediately prior to said retirement or death; and provided, further, that if said member has not held said rank or position for at least one year immediately prior to said retirement or death, "final compensation," as to such member, shall mean the monthly compensation earnable by such member in the rank or position next lower to the rank or position which he held at the time of retirement or death at the rate of remuneration attached at the time of said retirement or death to said next lower rank or position; provided, however, that in the case of a member's death before retirement as the result of a violent traumatic injury received in the performance of his duty, "final compensation," as to such member shall mean the monthly compensation earnable by such

member at the rate of remuneration attached on the date he receives such injury to the rank or position held by such member on that date.

The amendment of the definition of "final compensation" contained in the proposition therefor submitted to the electorate on June 6, 1972, shall be retroactive and shall be applicable to any death allowance first effective on or after July 1, 1971. Said amendment does not and shall not increase any death allowance first in effect prior to July 1, 1971, nor shall said amendment give any person receiving a death allowance, or his successors in interest any claim against the city and county for any increase in any death allowance paid or payable for time prior to July 1, 1971.

For the purpose of the retirement system and of this section, the terms "member of the police department," "member of the department" or "member" shall mean any officer or employee of the police department whose employment therein began prior to January 1, 1900, or whose employment therein began or shall begin after that date, and was or shall be subject to the charter provisions governing entrance requirements for members of the uniformed force of said department, and said terms further shall mean, from the effective date of their employment in said department, persons employed on July 1, 1945, regardless of age, or employed after said date at an age not greater than the maximum age then prescribed for entrance into employment in said uniformed force, to perform the duties now performed under the titles of criminologist, photographer, police patrol driver, police motor boat operator, woman protective officer, police woman or jail matron. Any police service performed by such member of the police department outside the limits of the city and county and under orders of a superior officer of any such member, shall be considered as city and county service, and any disability or death incurred therein shall be covered under the provisions of the retirement system.

"Retirement system" or "system" shall mean San Francisco City and County Employees' Retirement System as created in Section 8.600 of the charter.

"Retirement board" shall mean "retirement board" as created in Section 3.670 of the charter.

"Charter" shall mean the charter of the City and County of San Francisco.

Words used in the masculine gender shall include the feminine and neuter genders, and singular numbers shall include the plural and the plural the singular.

"Interest" shall mean interest at the rate adopted by the retirement board.

#### **A8.546 SERVICE RETIREMENT**

Any member of the police department who completes at least 25 years of service in the aggregate and attains the age of 50 years, said service to be computed under Section 8.554, may retire for service at his option. Members shall be retired on the first day of the month next following the attainment by them of the age of 65 years. A member retired after meeting the service and age requirements in the two sentences next preceding, shall receive a retirement allowance equal to 55 percent of the final compensation of said member, as defined in Section 8.545, plus and allowance at the rate of three percent of said final compensation, for each year of service rendered in excess of 25 years; provided, however, that such retirement allowance shall not exceed 70 percent of said member's final compensation. A member retired after attaining the age of 65 years, but before completing 25 years of service in the aggregate computed under Section 8.554, shall receive a retirement allowance which bears the same ratio to 50 percent of the final compensation of said member, as defined in Section 8.545 as the service with which he is entitled to be credited, bears to 25 years. If, at the date of retirement for service, or retirement for disability resulting from an injury received in performance of duty, said member has no wife, children or dependent parents, who would qualify for the continuance of the allowance after the death of said member, or with respect to the portion of the allowance which would not to be continued regardless of dependents, or upon retirement for disability resulting from other causes, with respect to all of the allowance and regardless of dependents at retirement, a member retired under this section, or Section 8.547, may elect before the first payment of the retirement allowance is made, to receive the actuarial equivalent of his allowance or the portion which would not be continued regardless of dependents, as the case may be, partly in a lesser allowance to be received by him throughout his life, and partly in other benefits payable after his death to another person or persons, provided that such election shall be subject to all the

conditions prescribed by the board of supervisors to govern similar election by other members of the retirement system, including the character and amount of such other benefits.

#### **A8.547 RETIREMENT FOR INCAPACITY**

Any member of the police department who becomes incapacitated for the performance of his duty by reason of bodily injury received in, or illness caused by performance of his duty, shall be retired. If he is not qualified for service retirement, he shall receive a retirement allowance in an amount which shall be equal to the same percentage of the final compensation of said member, as defined in Section 8.545, as his percentage of disability is determined to be. The percentage of disability shall be as determined by the Workers' Compensation Appeals Board of the State of California upon referral from the retirement board for that purpose; provided that the retirement board may, by five affirmative votes, adjust the percentage of disability as determined by said appeals board; and provided, further, that such retirement allowance shall be in an amount not less than 50 percent nor more than 90 percent of the final compensation of said member, as defined in Section 8.545. Said allowance shall be paid to him until the date upon which said member would have qualified for service retirement had he lived and rendered service without interruption in the rank held by him at retirement, and after said date the allowance payable shall be equal to the retirement allowance said member would have received if retired for service on said date, based on the final compensation as defined in Section 8.545 he would have received immediately prior to said date had he lived and rendered service as assumed, but such allowance shall not be less than 50 percent of such final compensation. If at the time of retirement because of disability, he is qualified as to age and service for retirement under Section 8.546, he shall receive an allowance equal to the retirement allowance which he would receive if retired under Section 8.546 but not less than 55 percent of said final compensation. Any member of the police department who becomes incapacitated for the performance of his duty, by reason of a cause not included under the provisions of the immediately preceding sentences, and who shall have completed at least 10 years of service in the aggregate, computed as provided in Section 8.554 shall be retired upon an allowance of



one and one-half percent of the final compensation of said member, as defined in Section 8.545, for each year of service provided that said allowance shall not be less than 33- $\frac{1}{3}$  percent of said final compensation; provided, however, that if such member has completed at least 25 years of service in the aggregate, computed as provided in Section 8.554, but has not yet attained the age of 50 years, he shall receive an allowance equal to the retirement allowance he would have received if he had attained the age of 50 years and retired under Section 8.546 as of the date of retirement for such incapacity. The question of retiring a member under this section may be brought before the retirement board on said board's own motion, by recommendation of the police commission, or by said member of his guardian. If his disability shall cease, his retirement allowance shall cease, and he shall be restored to the service in the rank he occupied at the time of his retirement.

#### **A8.548 DEATH ALLOWANCE**

If a member of the police department shall die before or after retirement by reason of an injury received in, or illness caused by the performance of his duty, a death allowance, in lieu of any allowance payable under any other section of the charter or by ordinance, on account of death resulting from injury received in or illness caused by the performance of duty, shall be paid, beginning on the date next following the date of death, to his surviving wife, throughout her life or until her remarriage. If the member, at the time of death, was qualified for service retirement, but had not retired, the allowance payable shall be equal to the retirement allowance which the member would have received if he had been retired for service on day of death, but such allowance shall not be less than 55 percent of the final compensation earnable by said member immediately preceding death. If death occurs prior to qualification for service retirement the allowance payable shall be equal to the final compensation of said member at the date of death, until the date upon which said member would have qualified for service retirement, had he lived and rendered service without interruption in the rank held by him at death, and after said date the allowance payable shall be equal to the retirement allowance said member would have received if retired for service on said date, based on the final compensation he would have received immediately prior to said date, had he

lived and rendered service as assumed, but such allowance shall not be less than 55 percent of such final compensation. If he had retired prior to death for service or for disability resulting from injury received in, or illness caused by the performance of duty, the allowance payable shall be equal to the retirement allowance of the member, except that if he was a member under Section 8.544 and retirement was for such disability, and if death occurred prior to qualification for the service retirement allowance, the allowance continued shall be reduced upon the date at which said member would have qualified for service retirement, in the same manner as it would have been reduced had the member not died. If there be no surviving wife entitled to an allowance hereunder, or if she die or remarry before every child of such deceased member attains the age of 18 years, then the allowance which the surviving wife would have received had she lived and not remarried shall be paid to his child or children under said age, collectively, to continue until every such child dies or attains said age, provided that no child shall receive any allowance after marrying or attaining the age of 18 years. Should said member leave no surviving wife and no children under the age of 18 years, but leave a parent or parents depending upon him for support, the parents so dependent shall collectively receive a monthly allowance equal to that which a surviving widow otherwise would have received, during such dependency. No allowance, however, shall be paid under this section to a surviving wife following the death of a member unless she was married to the member prior to the date of the injury or onset of the illness which results in death.

#### **A8.549 PAYMENT OF SURVIVING DEPENDENTS**

Upon the death of a member of the police department resulting from any cause, other than injury received in or illness caused by performance of duty:

(a) if his death occurred after qualification for service retirement under Sections 8.540, 8.543 or 8.546, or after retirement for service or because of disability which resulted from any cause other than any injury received in, or illness caused by the performance of duty, three-fourths of his retirement allowance to which he would have been entitled if he had retired for service at the time of his death or three-fourths of his retirement allowance as it was at



his death, as the case may be, shall be continued throughout life or until remarriage, to his surviving wife; or

(b) if his death occurred after the completion of at least 25 years of service in the aggregate but prior to the attainment of age 50 years, three-fourths of the retirement allowance to which he would have been entitled under section 8.546 if he had attained the age of 50 years on the date of his death shall be continued throughout life or until remarriage to his surviving wife; or

(c) if his death occurred after retirement because of disability which resulted from injury received in, or illness caused by the performance of duty, his retirement allowance as it was at his death shall be continued throughout life or until remarriage, to his surviving wife, except that, if death occurred prior to qualification for service retirement allowance, the allowance continued shall be adjusted upon the date at which said member would have qualified for service retirement, in the same manner as it would have been adjusted had the member not died; or

(d) if his death occurred after completion of at least 10 years of service in the aggregate, computed as provided in Section 8.554, an allowance in an amount equal to the retirement allowance to which the member would have been entitled pursuant to Section 8.547 if he had retired on the date of death because of incapacity for performance of duty resulting from a cause other than bodily injury received in or illness caused by performance of duty shall be paid throughout life or until remarriage to his surviving wife. If there be no surviving wife entitled to an allowance hereunder, or if she die or remarry before every child of such deceased member attains the age of 18 years, then the allowance which the surviving wife would have received had she lived and not remarried shall be paid to his child or children under said age, collectively, to continue until every such child dies or attains said age, provided that no child shall receive any allowance after marrying or attaining the age of 18 years. Should said member leave no surviving wife and no children under the age of eighteen years, but leave a child or children, regardless of age, dependent upon him for support because partially or totally disabled and unable to earn a livelihood or a parent or parent dependent upon him for support, the child or children and the parents so dependent shall collectively receive a monthly

allowance equal to that which a surviving wife otherwise would have received, during such dependency. No allowance, however, shall be paid under this section to a surviving wife unless she was married to the member prior to the date of the injury or the onset of the illness which results in death, if he had not retired, or unless she was married to the member at least one year prior his death.

As used in this section and Section 8.548, "surviving wife" shall mean and include a surviving spouse, and shall also mean and include a spouse who has remarried since the death of the member but whose remarriage has been terminated by death, divorce or annulment within five years after the date of such remarriage and who has not thereafter again remarried.

The surviving wife, in the event of death of the member after qualification for but before service retirement, may elect before the first payment of the allowance, to receive the benefit provided in Section 8.552 in lieu of the allowance which otherwise would be continued to her under this section. If there be no surviving wife, the guardian of the eligible child or children may make such election, and if there be no such children, the dependent parent or parents may make such election. Persons heretofore or hereafter retired under other charter sections as members of the police department at the time of retirement, shall be subject to the provisions of this section. With respect to members under Section 8.544, "qualified for service retirement," "qualification for service retirement," or "qualified as to age and service retirement," as used in this section and other sections to which persons who are members under Section 8.544 are subject, shall mean completion of 25 years of service and attainment of age 50, said service to be computed under Section 8.554.

The amendments of this Section 8.549 contained in the proposition heretofore submitted to the electorate on November 7, 1972, are hereby declared to be retroactive and shall be applicable to members who died after October 1, 1970.

#### **A8.550 ADJUSTMENT OF ALLOWANCES**

(a) Every allowance based on the average monthly compensation earnable by the member during the three or 10 years prior to retirement or death, and payable for time commencing on April 1, 1952, to or on account of persons who were retired or who died

prior to January 1, 1951, as members of the police department, shall be adjusted to the amount it would be if it had been based on the monthly compensation fixed in Section 35.5 of the charter of 1932 as amended as of July 1, 1951, for the rank of police officer in the respective years of service, regardless of the rank or position the member held in the department prior to his retirement, or death before retirement. Every service retirement allowance under Section 8.543 which is included in the sentence next preceding, shall be adjusted to what it would have been, if prior to optional modification, the allowance had been 50 percent of said monthly compensation. Allowances payable under Sections 8.547, 8.548 or 8.561 to or on account of persons who were retired for disability or died prior to January 1, 1951, on and after the date such persons would have qualified for service retirement, shall be calculated as provided in said Sections 8.547, 8.548, or 8.561, respectively. The provisions of Section 8.549 with respect to continuance of one-half of retirement allowance upon deaths after retirement, shall be applied from April 1, 1952, as if they were effective on November 2, 1948. This section does not authorize any decrease in any allowance from the amount being paid as of April 1, 1952, nor does this section give any retired member, or any beneficiary of such member, or his successors in interest, any claim against the city and county for any increase in any allowance paid or payable for the time prior to April 1, 1952. Adjustment in reserves under allowances which are changed according to this section, shall be made on the basis of current interest rate and mortality tables.

The increase in the retirement allowance shall be apportioned according to services rendered by the member in the same manner that the allowance prior to increase was apportioned. Contributions to the retirement system, necessary for the payment of the increase of the portion of the retirement allowances which is paid from reserves held by the retirement system, shall be provided from the reserves held by the retirement system on account of members under Section 8.544, the necessary amount being transferred upon April 1, 1952, from said reserves to the reserves held by the retirement system to meet the obligations on account of benefits that have been granted and on account of prior service of members. The contribution being required of the city and county currently, as a percentage of salaries of persons who are members

under Section 8.544, shall be increased to a percentage determined by the actuary as necessary to replace the reserves so transferred. Contributions to the retirement system necessary for the payment of said increases with reference to current and prior service portions of the allowances which are not paid from reserves held by the retirement system, shall be paid to the system by the city and county by annual appropriations, provided that such appropriation for any year shall not be less than the amount disbursed during that year on account of said increases.

(b) Every retirement or death allowance payable for time commencing on April 1, 1956, to or on account of any person who died or was retired prior to November 8, 1955, as a member of the police department, unless such person was retired or died as a member of the retirement system or the former police relief and pension fund, under any section of the charter, other than Section 8.543, or 8.544, is hereby increased by the amount of \$25 per month; provided, however, that such increased retirement allowance or death allowance shall not exceed 50 percent of the compensation as of July 1, 1954, attached to the rank of police officer in the fourth year of service as set forth under Section 35.5 of the charter of 1932, as amended regardless of the rank or position the member held in the department prior to his retirement or death before retirement.

Such increase shall not be modified under, nor subject to, Option 2 or 3 provided by ordinance. Allowances payable under Sections 8.547, 8.548, or 8.561, to or on account of persons who were retired for disability or died prior to November 8, 1955, on and after the date such persons would have qualified for service retirement, shall be calculated as provided in said Sections 8.547, 8.548, or 8.561, respectively.

This section does not authorize any decrease in any allowance from the amount being paid as of April 1, 1965, nor does this section give any member who retired, or the beneficiary of any member who died prior to April 1, 1956, or his successors in interest, any claim against the city and county for any increase in retirement allowance paid or payable for time prior to April 1, 1956.

The increase in allowance shall be apportioned between service rendered prior to the entry of the member into the retirement system under Section 8.543 or 8.544, and service rendered as such a member, in the same proportion that such prior and

current service respectively, bears to the total service credited at retirement. Contributions to the retirement system necessary for the increases in the allowances provided in this section, shall be provided, with respect to the portion of the benefit based on service rendered as members under Section 8.543 or 8.544 from the reserves held by the retirement system on account of members of the retirement system under Section 8.544, the necessary amount being transferred upon April 1, 1956, from said reserves to the reserves held by the retirement system to meet the obligations on account of allowances which are increased by this Subsection 8.550(b). The contribution being required of the city and county currently, as percentages of salaries of persons who are members under Section 8.543 or 8.544, shall be paid to the system by the city and county by annual appropriations, provided that such appropriation for any year shall not be less than the amount disbursed during that year on account of said increases. .

#### **A8.551 ADJUSTMENT OF ALLOWANCES BECAUSE OF COMPENSATION BENEFITS**

That portion of any allowance payable because of the death or retirement of any member of the police department, which is provided by contributions of the city and county, shall be reduced in the manner fixed by the board of supervisors, by the amount of any benefits, other than medical benefits, payable to or on account of such person, under the Workers' Compensation Insurance and Safety Law of the State of California and because of the injury or illness resulting in said death or retirement. Such portion which is paid because of death or retirement which resulted from injury received in or illness caused by performance of duty, shall be considered as in lieu of any benefits, other than medical benefits, payable to or on account of such persons under the said law of the State of California, and shall be in satisfaction and discharge of the obligation of the city and county to pay such benefits.

#### **A8.552 DEATH BENEFITS**

If a member of the police department shall die, before retirement, from causes other than an injury received in, or illness caused by the performance of duty, or regardless of cause, if no allowance shall be payable under Sections 8.548 or 8.549 preceding, a death benefit shall be paid to his estate or designated

beneficiary, the amount of which and the conditions for the payment of which shall be determined in the manner prescribed by the board of supervisors for the death benefit of other members of the retirement system. Upon the death of a member after retirement and regardless of the cause of death, a death benefit shall be paid to his estate or designated beneficiary, the amount of which and the conditions for payment of which shall be determined in the manner prescribed by the board of supervisors for the payment of a similar benefit upon the death of other retired members.

#### **A8.553 REFUNDS AND REDEPOSITS**

Should any member of the police department cease to be employed as such a member, through any cause other than death or retirement or transfer to another office or department, all of his contributions, with interest credited thereon, shall be refunded to him subject to the conditions prescribed by the board of supervisors to govern similar terminations of employment of other members of the retirement system. If he shall again become a member of the police department, he shall redeposit in the retirement fund the amount refunded to him. Contributions with interest, which are credited because of service rendered in any other office or department and which will not be counted under Section 8.554 to any person who becomes a member of the retirement system under Section 8.544, shall be refunded to him forthwith. Should a member of the police department become an employee of any other office or department, his accumulated contribution account shall be adjusted by payments to or from him as the case may be, to make the accumulated contributions credited to him at the time of change, equal to the amount which would have been credited to him if he had been employed in said other office or department at the rate of compensation received by him in the police department, and he shall receive credit for service for which said contributions were made, according to the charter section under which his membership in the retirement system continues.

#### **A8.554 COMPUTATION OF SERVICE**

The following time shall be included in the computation of the service to be credited to a member of the police department for the purposes of determining whether such member qualified for retirement, and calculating benefits, excluding,



however, any time the contributions for which were withdrawn by said member upon termination of his service while he was a member under any other charter section, and not redeposited upon re-entry into service:

(a) Time during and for which said member is entitled to receive compensation because of services as a member of the fire or police department.

(b) Time during which said member served and received compensation as a jail matron in the office of the sheriff.

(c) Time during which said member is entitled to receive compensation while a member of the retirement system, because of service rendered in other offices and departments before July 1, 1949, provided that accumulated contributions on account of such service, previously refunded, are redeposited, with interest from date of refund to date of redeposit, at times and in the manner fixed by the retirement board; and solely for the purpose of determining qualification for retirement under Section 8.547 for disability not resulting from injury received in, or illness caused by performance of duty, time during which said member serves, after June 30, 1949, and receives compensation because of services rendered in other offices and departments.

(d) Time during which said member is absent from a status included in paragraphs (a), (b), or (c) next preceding, by reason of service in the armed forces of the United States of America, or by reason of any other service included in Section 8.520 of the charter, during any war in which the United States was or shall be engaged or during other national emergency, and for which said member contributed or contributes to the retirement system or for which the city and county contributed or contributes on his account.

#### **A8.555 SOURCES OF FUNDS**

All payments provided for persons who are members under Section 8.544 shall be made from funds derived from the following sources, plus interest earned on said funds:

(a) The normal rate of contribution of each member shall be based on his age taken to the next lower complete quarter year, (1) at the date he became a member under Section 8.507 or 8.543, in the case of persons who are members under these sections, or (2) at July 1, 1945, in the case of persons who are

members under Section 8.540, and his age taken to the next lower completed quarter year, when he entered the police department, or (3) on his age at the date he becomes a member under Section 8.544, in the case of persons who become members on or after July 1, 1945, without credit for services counted under Section 8.554. The age of entrance into the police department shall be determined by deducting the member's service credited under Section 8.554 as rendered prior to the date upon which his age is based for determination of the rate of contribution according to the sentence next preceding, from said age. The normal rate of contribution of each such member, to be effective from the effective date of membership under Section 8.544, shall be such as, on the average for such member, will provide, assuming service without interruption, under Section 8.546, one-third of that portion of the service retirement allowance to which he would be entitled, without continuance to dependents, upon first qualifying as to age and service, for retirement under that section, without discount of allowance, which is based on service rendered after the date upon which his age is based for determination of his rate of contribution according to the first sentence in this paragraph, and assuming the contribution to be made from that date. The normal rate of contribution, however, shall not exceed six percent.

(b) The dependent rate of contribution of each member which shall be required of each member throughout his membership in addition to the normal contributions, and in the same manner as normal contributions, shall be such as, on the average for such member, will provide, assuming service without interruption under Section 8.546, and upon his first qualifying as to age and service for retirement under that section, one-third of the portion of his allowance, which is to be continued under Section 8.549, after his death and throughout the life of a surviving wife whose age at said death is three years less than the age of said member. If, at the date of retirement for service or retirement for disability resulting from injury received in performance of duty, said member has no wife who would qualify for the continuance of the allowance to her after the death of said member, or upon retirement from disability resulting from other causes regardless of his marital condition, the dependent contributions with accumulated interest thereon, shall be paid to him forthwith. The dependent



rate of contribution, however, shall not exceed the difference between six percent and the member's normal rate of contribution, and said dependent rate may be taken as a flat percentage of the member's normal rate, regardless of the age of qualification for service retirement.

(c) There shall be deducted from each payment of compensation made to a member under Section 8.544, a sum determined by applying the member's rates of contribution to such compensation payment. The sum so deducted shall be paid forthwith to the retirement system. Said contribution shall be credited to the individual account of the member from whose salary it was deducted, and the total of said contributions, together with interest credited thereon in the same manner as is prescribed by the board of supervisors for crediting interest to contributions of other members of the retirement system, shall be applied to provide part of the retirement allowance granted to, or allowance granted on account of said members or shall be paid to said member or his estate or beneficiary as provided in Sections 8.552, 8.553, and 8.554.

(d) Contributions based on time included in Subsections (a), (b), (c), and (d) of Section 8.554 and deducted prior to July 1, 1945, from compensation of persons who become members under Section 8.544, and standing with interest thereon, to the credit of such members on the records of the retirement system on said date, shall continue to be credited to the individual accounts of said members and shall be combined with and administered in the same manner as the contributions deducted after said date.

(e) The total contributions, with interest thereon, made by or charged against the city and county and standing to its credit, in the accounts of the retirement system, on account of persons who become members under Section 8.544, shall be applied to provide the benefits under said section.

(f) The city and county shall contribute to the retirement system such amounts as may be necessary, when added to the contributions referred to in the preceding paragraphs of this Section 8.555, to provide the benefits payable under this section. Such contributions of the city and county to provide the portion of the benefits hereunder which shall be based on service rendered by each member prior to the date upon which his age is based for determination of his rate of contribution in paragraph (a), Section 8.555

shall not be less during any fiscal year than the amount of such benefits paid during said year. Such contributions of the city and county to provide the portion of the benefits hereunder which shall be based on service rendered by respective members on and after the date stated in the next preceding sentence, shall be made in annual installments, and the installment to be paid in any year shall be determined by the application of a percentage to the total compensation paid during said year, to persons who are members under Section 8.544, said percentage to be the ratio of the value on July 1, 1945, or at the late date of a periodical actuarial valuation and investigation into the experience under the system of the benefits thereafter to be paid under this section, from contributions of the city and county, less the amount of such contributions, and plus accumulated interest thereon, then held by said system to provide said benefits on account of service rendered by respective members after the date stated in the sentence next preceding, to the value at said respective dates of salaries thereafter payable to said members. Said values shall be determined by the actuary, who shall take into account the interest which shall be earned on said contributions, the compensation experience of members, and the probabilities of separation by all causes, of members from service before retirement and of death after retirement. Said percentage shall be changed only on the basis of said periodical actuarial valuation and investigation into the experience under the system. Said actuarial valuation shall be made every even-numbered year and said investigation into the experience under the system shall be made every odd-numbered year.

(g) To promote the stability of the retirement system through a joint participation in the result of variations in the experience under mortality, investment and other contingencies, the contributions of both members and the city and county held by the system to provide the benefits under this section, shall be a part of the fund in which all other assets of said system are included. Nothing in this section shall affect the obligation of the city and county to pay to the retirement system any amounts which may or shall become due under the provisions of the charter prior to July 1, 1945, and which are represented on July 1, 1945, in the accounts of said system by debits against the city and county.

**A8.556 RIGHT TO RETIRE**

Upon the completion of the years of service set forth in Section 8.546 as requisite to retirement, a member of the police department shall be entitled to retire at any time thereafter in accordance with the provisions of said Section 8.546, and nothing shall deprive said member of said right.

**A8.557 LIMITATION ON EMPLOYMENT DURING RETIREMENT**

No person retired as a member under Section 8.544 after June 30, 1945, for service or disability and entitled to receive a retirement allowance under the retirement system shall serve in any elective or appointive position in the city and county service, including membership on boards and commissions, nor shall such person receive any payment for service rendered to the city and county after retirement, provided that service as an election officer or juror shall not be affected by this section.

**A8.558 DEFINITION OF "FINAL COMPENSATION"—ALLOWANCES FIRST PAYABLE PRIOR TO JULY 1, 1975**

Notwithstanding any other provision of this charter, but solely with respect to the determination of the amount of each retirement allowance payable to or on account of a person who retired for service or because of disability under the provisions of Section 8.544 of the charter prior to July 1, 1975, "final compensation," for time commencing on July 1, 1975, shall mean the rate of remuneration (excluding remuneration for overtime) attached on July 1, 1975, to the rank or position upon which such person's retirement allowance was determined when first effective; provided, further, that each such allowance shall be increased or decreased as of July 1, 1990, and thereafter on the effective date of any legislation fixing the rates of compensation for police officers under section 8.405 of this charter by an amount equal to 50 percent of the rate of change in the salary attached to said rank multiplied by the allowance which was payable for the month immediately preceding each July 1.

This section does not give any person retired under the provisions of said Section 8.544, or his successors in interest, any claim against the city and county for any increase in any retirement allowance paid or payable for time prior to July 1, 1975.

This section does not authorize any decrease in the amount of any allowance from the amount being paid as of June 30, 1975.

No retirement allowance to which the definition of "final compensation" as set forth in this section is applicable shall be subject to adjustment under the provisions of Section 8.526 for time commencing July 1, 1975. Contributions, with interest credited thereon, standing to the credit of a person whose retirement allowance is subject to the provisions of this section and which were made by such person pursuant to the provisions of Section 8.526 shall, effective July 1, 1975, be combined with any administered in the same manner as such person's normal contributions. Contributions, with interest credited thereon, made by or charged against the city and county and standing to its credit on account of a person whose retirement allowance is subject to the provisions of this section and which were made by or charged against the city and county for the purposes of said Section 8.526 shall be applied to provide the benefits under this section.

**A8.559 MEMBERS OF THE POLICE DEPARTMENT ON AND AFTER JULY 1, 1975**

Notwithstanding the provisions of Section 8.544 of this charter, members of the police department, as defined in Section 8.559-1, who are members of the retirement system under Section 8.554 on the effective date of this section and persons who become members of the retirement system under Section 8.544 after said effective date and prior to July 1, 1975, shall have the option, to be exercised in writing on a form furnished by the retirement system and to be filed at the office of said system not later than June 30, 1975, of being members of the system under this section instead of said Section 8.544, the election pursuant to said option to be effective as of July 1, 1975; provided that such of said members who, during the period from the effective date of this section through June 30, 1975, are absent by reason of service in the armed forces of the United States or by reason of any other service included in Section 8.520(a) of this charter shall have the same option of electing to be members under this section instead of Section 8.544, until 90 days after their return to service in the police department.

Those persons who become members of the police department, as defined in Section 8.559-1, on or after July 1, 1975, and those persons who elect to be members under this section as provided in the

preceding paragraph, shall be members of the system subject to provisions of Sections 8.559, 8.559-1, 8.559-2, 8.559-3, 8.559-4, 8.559-5, 8.559-6, 8.559-7, 8.559-8, 8.559-9, 8.559-10, 8.559-11, 8.559-12 and 8.559-13 (which shall apply only to members under Section 8.559) in addition to the provisions contained in Sections 3.670 to 3.672, both inclusive, and Sections 8.500, 8.510 and 8.520 of this charter, notwithstanding the provisions of any other section of this charter, and shall not be subject to any of the provisions of Section 8.544 of this charter.

### **A8.559-1 DEFINITIONS**

The following words and phrases as used in this section, Section 8.559 and Sections 8.559-2 through 8.559-13, unless a different meaning is plainly required by the context, shall have the following meanings:

“Retirement allowance,” “death allowance” or “allowance,” shall mean equal monthly payments, beginning to accrue upon the date of retirement, or upon the day following the date of death, as the case may be, and continuing for life unless a different term of payment is definitely provided by the context.

“Compensation,” as distinguished from benefits under the Workers' Compensation Insurance and Safety Act of the State of California, shall mean the remuneration payable in cash, by the city and county, without deduction except for absence from duty, for time during which the individual receiving such remuneration is a member of the police department, but excluding remuneration paid for overtime.

For retirement purposes, any increase in compensation attached to a rank which is based solely upon the possession of a POST certificate, compared to the equivalent rank without a POST certificate, shall be subject to the following limitations:

(a) for possession of the intermediate POST certificate, no more than 4% shall be included in compensation,

(b) for possession of the advanced POST certificate, no more than an additional 2% over the maximum provided in subsection (a), above, shall be included in compensation,

These limits shall apply to any pay increments which are solely attributable to the possession of a POST certificate, including but not limited to premiums or special ranks which may be established

in the future and which are solely attributable to the possession of a POST certificate.

“Compensation earnable” shall mean the compensation which would have been earned had the member received compensation without interruption throughout the period under consideration and at the rates of remuneration attached at that time to the ranks or positions held by him or her during such period, it being assumed that during any absence, he or she was in the rank or position held by him or her at the beginning of the absence, and that prior to becoming a member of the police department, he or she was in the rank or position first held by him or her in such department.

“Benefit” shall include “allowance,” “retirement allowance,” “death allowance” and “death benefit.”

“Final compensation” shall mean the monthly compensation earnable by a member at the time of his or her retirement, or death before retirement, as the case may be, at the rate of remuneration attached at that time to the rank or position which said member held, provided that said member has held said rank or position for at least one year immediately prior to said retirement or death; and provided, further, that if said member has not held said rank or position for at least one year immediately prior to said retirement or death, “final compensation,” as to such member, shall mean the monthly compensation earnable by such member in the rank or position next lower to the rank or position which he or she held at the time of retirement or death at the rate of remuneration attached at the time of said retirement or death to said next lower rank or position; provided, however, that in the case of a member's death before retirement as the result of a violent traumatic injury received in the performance of his or her duty, “final compensation,” as to such member shall mean the monthly compensation earnable by such member at the rate of remuneration attached on the date he receives such injury to the rank or position held by such member on that date.

For purposes of calculation of final compensation, any increase in pay solely attributable to possession of a POST certificate shall be included only if the member possesses the qualifying POST certificate for a period of not less than four (4) years prior to his or her retirement date; provided, however, that should a member possess the qualifying POST



certificate for a period of time less than four (4) years prior to retirement, final compensation shall be calculated based upon the monthly compensation in the next lower rank not requiring possession of the qualifying POST certificate.

For the purpose of Sections 8.559 through 8.559-13, the terms "member of the police department," "member of the department," or "member" shall mean any officer or employee of the police department, excluding such officers and employees as are members of the retirement system under Section 8.565 or Section 8.568 of the charter, who was or shall be subject to the charter provisions governing entrance requirements of members of the uniformed force of said department, and said terms further shall mean, from the effective date of their employment in said department, persons employed on July 1, 1975, regardless of age, or employed after said date at an age not greater than the maximum age then prescribed for entrance into employment in said uniformed force, to perform the duties now performed under the titles of criminologist, photographer, police patrol driver, police motor boat operator, woman protective officer, police woman or jail matron.

Any police service performed by such members of the police department outside the limits of the city and county and under orders of a superior officer or any such member, shall be considered as city and county service, and any disability or death incurred therein shall be covered under the provisions of the retirement system.

"Retirement system" or "system" shall mean San Francisco City and County Employees' Retirement System as created in Section 8.500 of the charter.

"Retirement board" shall mean "retirement board" as created in Section 3.670 of the charter.

"Charter" shall mean the charter of the City and County of San Francisco.

Words used in the masculine gender shall include the feminine and neuter gender, and singular numbers shall include the plural and the plural the singular.

"Interest" shall mean interest at the rate adopted by the retirement board. (Amended November 1998)

#### **A8.559-2 SERVICE RETIREMENT**

Any member of the police department who completes at least twenty-five (25) service in the aggregate and attains the age of fifty (50) years, said service to be computed under Section 8.559-10, may

retire for service at his or her option. A member retired after meeting the service and age requirements in the sentence next preceding, shall receive a retirement allowance equal to fifty-five (55) percent of the final compensation of said member, as defined in Section 8.559-1, plus an allowance at the rate of four percent of said final compensation for each year of service rendered in excess of twenty-five (25) years; provided, however, that such retirement allowance shall not exceed seventy-five (75) percent of said member's final compensation. A member retired after attaining the age of sixty-five (65) years, but before completing twenty-five (25) years of service in the aggregate computed under Section 8.559-10, shall receive a retirement allowance which bears the same ratio to fifty (50) percent of the final compensation of said member, as defined in Section 8.559-1, as the service with which he or she is entitled to be credited bears to twenty-five (25) years. If, at the date of retirement for service, or retirement for disability, resulting from an injury received in the performance of duty, said member has no spouse, children or dependent parents, who would qualify for the continuance of the allowance after the death of said member, or with respect to the portion of the allowance which would not be continued regardless of dependents, or upon retirement for disability resulting from other causes, with respect to all of the allowance and regardless of dependents at retirement, a member retired under this section or Section 8.559-3, may elect before the first payment of the retirement allowance is made, to receive the actuarial equivalent of his or her allowance or the portion which would not be continued regardless of dependents, as the case may be, partly in a lesser allowance to be received by him or her throughout his or her life, and partly in other benefits payable after his or her death to another person or persons, provided that such election shall be subject to all the conditions prescribed by the board of supervisors to govern similar election by other members of the retirement system, including the character and amount of such other benefits.

#### **A8.559-3 RETIREMENT FOR INCAPACITY**

Any member of the police department who becomes incapacitated for the performance of his duty by reason of any bodily injury received in, or illness caused by the performance of his duty, shall be retired. If he is not qualified for service retirement, he



shall receive a retirement allowance in an amount which shall be equal to the same percentage of the final compensation of said member, as defined in Section 8.559-1, as his percentage of disability is determined to be. The percentage of disability shall be as determined by the Workers' Compensation Appeals Board of the State of California upon referral from the retirement board for that purpose; provided that the retirement board may, by five affirmative votes, adjust the percentage of disability as determined by said appeals board; and provided, further, that such retirement allowance shall be in an amount not less than 50 percent nor more than 90 percent of the final compensation of said member, as defined in Section 8.559-1. Said allowance shall be paid to him until the date upon which said member would have qualified for service retirement had he lived and rendered service without interruption in the rank held by him at retirement, and after said date the allowance payable shall be equal to the retirement allowance said member would have received if retired for service on said date based on the final compensation, as defined in Section 8.559-1, he would have received immediately prior to said date, had he lived and rendered service as assumed, but such allowance shall not be less than 55 percent of such final compensation.

If, at the time of retirement because of disability, he is qualified as to age and service for retirement under Section 8.559-2, he shall receive an allowance equal to the retirement allowance which he would receive if retired under Section 8.559-2, but not less than 55 percent of said final compensation. Any member of the police department who becomes incapacitated for performance of his duty, by reason of a cause not included under the provisions of the immediately preceding sentences, and who shall have completed at least 10 years of service in the aggregate, computed as provided in Section 8.559-10, shall be retired upon an allowance of one and one-half percent of the final compensation of said member as defined in Section 8.559-1 for each year of service, provided that said allowance shall not be less than 33- $\frac{1}{3}$  percent of said final compensation; provided, however, that if such member has completed at least 25 years of service in the aggregate, computed as provided in Section 8.559-10, but has not yet attained the age of 50 years, he shall receive an allowance equal to the retirement allowance he would have received if he had

attained the age of 50 years and retired under Section 8.559-2 as of the date of retirement for such incapacity. The question of retiring a member under this section may be brought before the retirement board on said board's own motion, by recommendation of the police commission, or by said member or his guardian. If his disability shall cease, his retirement allowance shall cease, and he shall be restored to the service in the rank he occupied at the time of his retirement.

#### **A8.559-4 DEATH ALLOWANCE**

If a member of the police department shall die before or after retirement by reason of an injury received in, or illness caused by the performance of his duty, a death allowance, in lieu of any allowance payable under any other section of the charter or by ordinance, on account of death resulting from injury received in or illness caused by the performance of duty, shall be paid, beginning on the date next following the date of death, to his surviving wife throughout her life or until her remarriage. If the member, at the time of death, was qualified for service retirement, but had not retired, the allowance payable shall be equal to the retirement allowance which the member would have received if he had been retired for service on the day of death, but such allowance shall not be less than 55 percent of the final compensation earnable by said member immediately preceding death. If death occurs prior to qualification for service retirement, the allowance payable shall be equal to the final compensation of said member at the date of death, until the date upon which said member would have qualified for service retirement, had he lived and rendered service without interruption in the rank held by him at death, and after said date the allowance payable shall be equal to the retirement allowance said member would have received if retired for service on said date, based on the final compensation he would have received immediately prior to said date, had he lived and rendered service as assumed, but such allowance shall not be less than 55 percent of such monthly final compensation. If he had retired prior to death, for service or for disability resulting from injury received in, or illness caused by the performance of duty, the allowance payable shall be equal to the retirement allowance of the member, except that if he was a member under Section 5.559

and retirement was for such disability, and if death occurred prior to qualification for the service retirement allowance, the allowance continued shall be reduced upon the date at which said member would have qualified for service retirement, in the same manner as it would have been reduced had the member not died. If there be no surviving wife entitled to an allowance hereunder, or if she dies or remarries before every child of such deceased member attains the age of 18 years, then the allowance which the surviving wife would have received had she lived and not remarried shall be paid to his child or children under said age, collectively, to continue until every such child dies or attains said age, provided that no child shall receive any allowance after marrying or attaining the age of 18 years. Should said member leave no surviving wife and no children under the age of 18 years, but leave a parent or parents dependent upon him for support, the parents so dependent shall collectively receive a monthly allowance equal to that which a surviving widow otherwise would have received, during such dependency. No allowance, however, shall be paid under this section to a surviving wife following the death of a member unless she was married to the member prior to the date of the injury or onset of the illness which results in death.

#### **A8.559-5 PAYMENT TO SURVIVING DEPENDENTS**

Upon the death of a member of the police department resulting from any cause, other than an injury received in, or illness caused by performance of duty;

(a) if his death occurred after qualification for service retirement, under Section 8.559-2, or after retirement for service or because of disability which resulted from any cause other than an injury received in, or illness caused by performance of duty, three-fourths of his retirement allowance to which the member would have been entitled if he had retired for service at the time of death or three-fourths of the retirement allowance as it was at his death, as the case may be, shall be continued throughout life or until marriage to his surviving wife; or

(b) if his death occurred after the completion of at least 25 years of service in the aggregate but prior to the attainment of the age of 50 years, three-fourths of the retirement allowance to which he would have been entitled under Section 8.559-2 if he had attained

the age of 50 years on the date of his death shall be continued throughout life or until remarriage to his surviving wife; or

(c) if his death occurred after retirement for disability by reason of injury received in, or illness caused by performance of duty, his retirement allowance as it was at his death shall be continued throughout life or until remarriage, to his surviving wife, except that, if death occurred prior to qualification for service retirement allowance, the allowance continued shall be adjusted upon the date of which said member would have qualified for service retirement, in the same manner as it would have been adjusted had the member not died; or

(d) if his death occurred after completion of at least 10 years of service in the aggregate, computed as provided in Section 8.559-10, an allowance in an amount equal to the retirement allowance to which the member would have been entitled pursuant to Section 8.559-3 if he had retired on the date of death because of incapacity for performance of duty resulting from a cause other than bodily injury received in, or illness caused by performance of duty shall be paid throughout life or until remarriage to his surviving wife. If there be no surviving wife entitled to an allowance hereunder, or if she dies or remarries before every child of such deceased member attains the age of 18 years, then the allowance which the surviving wife would have received had she lived and not remarried shall be paid to his child or children under said age, collectively, to continue until every such child dies or attains said age, provided that no child shall receive any allowance after marrying or attaining the age of 18 years. Should said member leave no surviving wife and no children under age of 18 years, but leave a child or children, regardless of age, dependent upon him for support because partially or totally disabled and unable to earn a livelihood or a parent or parents dependent upon him for support, the child or children and the parents so dependent shall collectively receive a monthly allowance equal to that which a surviving wife otherwise would have received, during such dependency. No allowance, however, shall be paid under this section to a surviving wife unless she was married to the member prior to the date of the injury or onset of the illness which results in death if he had not retired, or unless she was married to the member at least one year prior to his death if he had retired.

As used in this section and Section 8.559-4, "surviving wife" shall mean and include a surviving spouse, and shall also mean and include a spouse who has remarried since the death of the member, but whose remarriage has been terminated by death, divorce or annulment within five years after the date of such remarriage and who has not thereafter again remarried.

The surviving wife, in the event of death of the member after qualification for but before service retirement, may elect before the first payment of the allowance, to receive the benefit provided in Section 8.559-8, in lieu of the allowance which otherwise would be continued to her under this section. If there be no surviving wife, the guardian of the eligible child or children may make such election, and if there be no such children, the dependent parent or parents may make such election. "Qualified for service retirement," "Qualification for service retirement" or "Qualified as to age and service for retirement," as used in this section and other sections to which persons who are members under Section 8.559 are subject, shall mean completion of 25 years of service and attainment of age 50, said service to be computed under Section 8.559-10.

#### **A8.559-6 ADJUSTMENT OF ALLOWANCES**

Every retirement or death allowance payable to or on account of any member under Section 8.559 shall be increased or decreased as of July 1, 1990, and thereafter on the effective date of any legislation fixing the rates of compensation for police officers under section 8.405 of this charter by an amount equal to 50 percent of any increase or decrease, respectively, in the rate of remuneration attached to the rank or position upon which such retirement or death allowance was based; provided, however, that no allowance shall be reduced below the amount being received by a member or his beneficiary on June 30, 1976, or on the date such member or beneficiary began to receive the allowance, whichever is later.

#### **A8.559-7 ADJUSTMENT FOR COMPENSATION PAYMENTS**

That portion of any allowance payable because of the death or retirement of any member of the police department which is provided by contributions of the city and county, shall be reduced in the manner fixed by the board of supervisors, by the amount of any

benefits other than medical benefits, payable by the city and county to or on account of such person, under any workers' compensation law or any other general law and because of the injury or illness resulting in said death or retirement. Such portion which is paid because of death or retirement which resulted from injury received in or illness caused by performance of duty, shall be considered as in lieu of all benefits, other than medical benefits, payable to or on account of such person under such law and shall be in satisfaction and discharge of the obligation of the city and county to pay such benefits.

#### **A8.559-8 DEATH BENEFIT**

If a member of the police department shall die, before retirement from causes other than an injury received in or illness caused by the performance of duty, or regardless of cause, if no allowance shall be payable under Section 8.559-4 or 8.559-5 preceding, a death benefit shall be paid to his estate or designated beneficiary, the amount of which and the conditions for the payment of which shall be determined in the manner prescribed by the board of supervisors for the death benefit of other members of the retirement system. Upon the death of a member after retirement and regardless of the cause of death, a death benefit shall be paid to his estate or designated beneficiary the amount of which and the conditions for the payment of which shall be determined in the manner prescribed by the board of supervisors for the death benefit of other members of the retirement system.

#### **A8.559-9 REFUNDS AND REDEPOSITS**

Should any member of the police department cease to be employed as such a member, through any cause other than death or retirement or transfer to another office or department, all of his or her contributions, with interest credited thereon, shall be refunded to him or her subject to the conditions prescribed by the board of supervisors to govern similar terminations of employment of other members of the retirement system. If he or she shall again become a member of the department, he or she shall redeposit in the retirement fund, the amount refunded to him or her. Should a member of the police department become an employee of any other office or department, his or her accumulated contribution account shall be adjusted by payments to or from him or her as the case may be to make the accumulated



contributions credited to him or her at the time of change, equal to the amount which would have been credited to him or her if he or she had been employed in said other office or department at the rate of compensation received by him or her in the police department and he or she shall receive credit for service for which said contributions were made, according to the charter section under which his or her membership in the retirement system continues.

#### **A8.559-10 COMPUTATION OF SERVICE**

The following time shall be included in the computation of the service to be credited to a member of the police department for the purposes of determining whether such member qualified for retirement and calculating benefits, excluding, however, any time, the contributions for which were withdrawn by said member upon termination of his service while he was a member under any other charter section, and not redeposited upon reentry into service:

(a) Time during and for which said member is entitled to receive compensation because of services as a member of the fire or police department.

(b) Time during which said member served and received compensation as a jail matron in the office of the sheriff.

(c) Time during which said member is entitled to receive compensation while a member of the retirement system, because of service rendered in other offices and departments prior to July 1, 1949, provided that accumulated contributions on account of such service previously refunded, are redeposited, with interest from date of refund to date of reposit, at times and in the manner fixed by the retirement board; and solely for purpose of determining qualification for retirement under Section 8.559-3 for disability not resulting from injury received in, or illness caused by performance of duty, time during which said member serves, after July 1, 1949, and receives compensation because of services rendered in other offices and departments.

(d) Time during which said member is absent from a status included in Subsections (a), (b), or (c) next preceding, by reason of service in the armed forces of the United States of America, or by reason of any other service included in Section 8.520 of the charter, during any war in which the United States was or shall be engaged or during other national

emergency, and for which said member contributed or contributes to the retirement system or for which the city and county contributed or contributes on his account.

#### **A8.559-11 SOURCES OF FUNDS**

All payments provided for members under Section 8.559 shall be made from funds derived from the following sources, plus interest earned on said funds:

(a) The normal rate of contribution for each member under Section 8.559 shall be based on his age taken to the next lower complete quarter year, (1) at the date he became a member under Section 8.544, in the case of persons who are members under that section, or (2) on his age at the date he becomes a member under Section 8.559 in the case of persons who become members on or after July 1, 1973, without credit for service counted under Section 8.559-10. The age of entrance into the police department shall be determined by deducting the member's service credited under Section 8.559-10 as rendered prior to the date upon which his age is based for determination of his rate of contribution according to the sentence next preceding, from said age. The normal rate of contribution of each such member, to be effective from the effective date of membership under Section 8.559, shall be such as, on the average for such member, will provide, assuming service without interruption, under Section 8.559-2, one-third of that portion of the service retirement allowance to which he would be entitled, without continuance to dependents, upon first qualifying as to age and service for retirement under that section, which is based on service rendered after the date upon which his age is based for determination of his rate of contribution according to the first sentence in this paragraph, and assuming the contribution to be made from that date. The normal rate of contribution, however, shall not exceed seven percent.

(b) The dependent contributions of each member under this section which shall be required of each member throughout his membership in addition to the normal contributions, and in the same manner as normal contributions, shall be such as, on the average for such member, will provide, assuming service without interruption under Section 8.559-2, and upon his first qualifying as to age and service for retirement under that section, one-third of the portion of his



allowance, which is to be continued under Section 8.559-5 after his death and throughout the life of a surviving wife whose age at said death is three years less than the age of said member. If, at the date of retirement for service or retirement for disability resulting from injury received in performance of duty, said member has no wife who would qualify for the continuance of the allowance to her after the death of said member, or upon retirement for disability resulting from other causes, regardless of his marital conditions, the dependent contributions with accumulated interest thereon, shall be paid to him forthwith. The dependent rate of contribution, however, shall not exceed the difference between seven percent and the member's normal rate of contribution, and said dependent rate may be taken as a flat percentage of the member's normal rate, regardless of the age of qualification for service retirement.

(c) There shall be deducted from each payment of compensation made to a member under this section, a sum determined by applying the member's rates of contribution to such compensation payment. The sum so deducted shall be paid forthwith to the retirement system. Said contribution shall be credited to the individual account of the member from whose salary it was deducted, and the total of said contributions, together with interest credited thereon in the same manner as is prescribed by the board of supervisors for crediting interest to contributions of other member of the retirement system, shall be applied to provide part of the retirement allowance granted to, or allowance granted on account of said member, or shall be paid to said member or his estate or beneficiary as provided in Sections 8.559-8, 8.559-9 and 8.559-10.

(d) Contributions based on time included in Subsections (a), (b) and (c) of Section 8.559-10, and deducted prior to July 1, 1975, from compensation of persons who become members under Section 8.559, and standing with interest thereon, to the credit of such members on the records of the retirement system on said date, together with contributions made by such members pursuant to the provisions of Section 8.526 and standing with interest thereon to the credit of such members on the records of the retirement system on said date, shall continue to be credited to the individual accounts of said members and shall be combined with and administered in the same manner as the contributions deducted after said date.

(e) The total contributions, with interest thereon, made by or charged against the city and county and standing to its credit, in the accounts of the retirement system, on account of persons who become members under Section 8.559, shall be applied to provide the benefits under said Section 8.559.

(f) The city and county shall contribute to the retirement system such amounts as may be necessary, when added to the contributions referred to in the preceding paragraphs of this Section 8.559-11 to provide the benefits payable to members under Section 8.559. Such contributions of the city and county to provide the portion of the benefits hereunder which shall be based on service rendered by each member prior to the date upon which his age is based for determination of his rate of contribution in Subsection (a) of this Section 8.559-11, shall not be less during any fiscal year than the amount of such benefits paid during said year. Such contributions of the city and county to provide the portion of the benefits hereunder which shall be based on service rendered by respective members on and after the date stated in the next preceding sentence, shall be made in annual installments, and the installment to be paid in any year shall be determined by the application of a percentage to the total compensation paid during said year, to persons who are members under Section 8.559, said percentage to be the ratio of the value on July 1, 1975, or at the later date of a periodical actuarial valuation and investigation into the experience under the system, of the benefits thereafter to be paid under this section, from contributions of the city and county, less the amount of such contributions, and plus accumulated interest thereon, then held by said systems to provide said benefits on account of service rendered by respective members after the date stated in the sentence next preceding, to the value of said respective dates of salaries thereafter payable to said members. Said values shall be determined by the actuary, who shall take into account the interest which shall be earned on said contributions, the compensation experience of members, and the probabilities of separation by all causes, of members from service before retirement and of death after retirement. Said percentage shall be changed only on the basis of said periodical actuarial valuation and investigation into the experience under the system. Said actuarial valuation shall be made every even-numbered year and said investigation into the

experience under the system shall be every odd-numbered year.

(g) To promote the stability of the retirement system through a joint participation in the result of variations in the experience under mortality, investment and other contingencies the contributions of both members and the city and county held by the system to provide the benefits under this section, shall be a part of the fund in which all other assets of said system are included. Nothing in this section shall affect the obligations of the city and county to pay to the retirement system any amounts which may or shall become due under the provisions of the charter prior to July 1, 1975, and which are represented on said effective date, in the accounts of said system by debits against the city and county.

#### **A8.559-12 RIGHT TO RETIRE**

Upon the completion of the years of service set forth in Section 8.559-2 as requisite to retirement, a member of the police department shall be entitled to retire at any time thereafter in accordance with the provisions of said Section 8.559-2, and nothing shall deprive said member of said right.

#### **A8.559-13 LIMITATION IN EMPLOYMENT DURING RETIREMENT**

Except as otherwise provided in section 8.511 of this charter, no person retired as a member under Section 8.559 for service or disability and entitled to receive a retirement allowance under the retirement system shall serve in any elective or appointive position in the city and county service, including membership on boards and commissions, nor shall such person receive any payment for service rendered to the city and county after retirement, provided that service as an election officer or juror, or in the preparation for, or the giving of, testimony as an expert witness for or on behalf of the City and County of San Francisco before any court or legislative body shall not be affected by this section.

#### **A8.559-14 RIGHT TO TRANSFER**

Notwithstanding any provisions of this charter to the contrary, any person who, on or after January 1, 1981, is a member of the Police Department, and is a member of the Retirement System under Charter Section 8.559, may become a member of the Retirement System under Charter Section 8.586 by

filing in writing with the Retirement System no later than December 31, 1981, an executed waiver of all benefits which might inure to him under Charter Section 8.559. This waiver must be without right of revocation and on a form furnished by the retirement system. The Retirement Board may require that this waiver be executed by additional persons before it becomes operative.

This transfer will be effective July 1, 1980. Those persons so electing to become members under Charter Section 8.586 shall receive service credit under Charter Section 8.586 equal to their service credit under Charter Section 8.559 as of June 30, 1980.

Those persons so electing to become members under Charter Section 8.586 shall not be subject to any of those provisions of Charter Section 8.559 as of July 1, 1980.

Notwithstanding the provisions of Charter Section 8.526, the cost of living adjustment in any given year for those persons electing this transfer to Charter Section 8.586 shall not exceed the provisions of Charter Section 8.526 as they existed on July 1, 1980.

Those persons so electing to transfer membership from Charter Section 8.559 to Charter Section 8.586 shall receive a monetary consideration not to exceed \$40,000 calculated at the rate of \$2,500 for each year of said service credit up to ten years and then at the rate of \$1000 for each additional year of said service credit. This monetary consideration shall be paid from said member's contribution account including any interest thereon. When said member's contribution account is depleted, the balance shall be paid from the city and county contributions held by the retirement system.

This consideration shall be payable January 1, 1982. Alternatively, an employee may elect to receive payments according to a schedule established by the Retirement Board.

Notwithstanding any other charter or ordinance provisions, no change in the provisions of Charter Section 8.586 and those provisions incorporated therein by reference shall apply to those persons transferring pursuant to this section unless separately approved by the electorate in a separate charter amendment.

Notwithstanding any other charter or ordinance provisions except proposed Charter Section 8.586-15 as proposed to the electorate for the election of November 4, 1980, that portion of any benefits

pursuant to this section, payable because of an increase in benefits under Charter Section 8.586 subsequent to July 1, 1980, shall be reduced dollar for dollar when payable not to exceed the amount of monetary consideration plus interest said member received for making this transfer.

#### **A8.559-15 VESTING**

Should any member of the police department who is a member of the Retirement System under charter section 8.559, with five years of credited service, cease to be so employed, through any cause other than death or retirement, he or she shall have the right to elect, without right of revocation and within 90 days after termination of said service, to allow his or her accumulated contributions including interest to remain in the retirement fund and to receive a retirement benefit calculated at termination, defined as that proportion of the normal service retirement benefit that his or her accrued service credit bears to 25 years, payable beginning at age 50.

Any member of the police department convicted of a crime involving moral turpitude committed in connection with his or her duties as a member of the police department shall, upon termination of his or her employment pursuant to the provisions of this charter, forfeit all right to any benefits under this section except refund of his or her accumulated contributions.

Every retirement or death allowance payable to or on account of any member under Section 8.559-15 shall be adjusted in accordance with the provisions of Section 8.559-6 provided that if the member's accrued service credit is less than 25 years the section 8.559-6 adjustment will be multiplied by a fraction where the denominator is 25 and the numerator is equal to the member's accrued service credit at the date of termination.

#### **A8.560 DEFINITION, MEMBERS OF FIRE AND POLICE DEPARTMENT**

For the purpose of the retirement system, any officer or employee of the police or the fire departments whose employment therein began prior to January 1, 1900, or whose employment therein began on or shall begin after that date and was or shall be subject to a charter maximum age at the time of employment of not over 35 years, shall be considered to be a member of the police department or the fire department, respectively. Any fire or police service

outside the limits of the city and county performed by a member of the retirement system and under orders of a superior officer of any such member, shall be considered as city and county service, and any disability or death incurred therein shall be covered under the provisions of the retirement system.

#### **A8.561 PENSION PROVISIONS—DEPENDENT OF MEMBERS OF FIRE AND POLICE DEPARTMENTS KILLED IN LINE OF DUTY**

If a member of the fire or police departments, as defined in the charter for the purposes of the retirement system, or a member of the salvage corps in the fire department, or any person employed by the city and county to perform duties now performed under the titles of pilots of fireboats, marine engineer of fireboats, or marine fireman of fireboats, all of whom are hereinafter designated as members, shall die before or after retirement as a result of an injury received in, or illness caused by the performance of his duty, a monthly allowance, in lieu of any allowance payable under any other section of the charter or by ordinance, shall be paid, beginning on the date next following the date of death, to his surviving wife throughout her life or until her remarriage. If the member, at the time of death, was qualified for service retirement, but had not retired, the allowance payable shall be equal to the retirement allowance which the member would have received if he had been retired for service on the day of death, but such allowances shall not be less than one-half of the average monthly compensation earnable by said member during the three years immediately preceding death, and if he had retired prior to death, the allowance payable shall be equal to the retirement allowance of the member. If death occurs prior to qualification for service retirement, the allowance payable shall be equal to the compensation of said member at the date of death, until the date upon which said member would have qualified for service retirement, had he lived and rendered service without interruption in the rank held by him at death, and after said date the allowance payable shall be equal to the retirement allowance said member would have received if retired for service on said date, based on the average monthly compensation he would have received during the three years immediately prior to said date, had he lived and rendered service as assumed, but such allowance shall not be less than



one-half of such average monthly compensation. If there be no surviving wife entitled to an allowance hereunder, of if she die or remarry before every child of such deceased member attains the age of 18 years, then the allowance which the surviving wife would have received had she lived and not remarried shall be paid to his child or children under said age, collectively, to continue until every such child dies or attains said age, provided that no child shall receive any allowance after marrying or attaining the age of 18 years. Should said member leave no surviving wife and no children under the age of 18 years, but leave a parent or parents dependent upon him for support, the parents so dependent shall collectively receive a monthly allowance equal to that which a surviving widow otherwise would have received, during such dependency. No allowance, however, shall be paid under this subsection to a surviving wife following the death of a member unless she was married to the member prior to the date of the injury or onset of the illness which result in death.

Benefits provided under this section shall be in lieu of all benefits payable under other sections of the charter upon death of such member resulting from an injury received in, or illness caused by the performance of duty, except the five hundred dollar benefit payable upon death after retirement.

Contributions to provide the allowance under this section shall be made to the San Francisco City and County Employees' Retirement System by the city and county. The amount of the contribution shall be determined and payment to the system shall be made in the same manner as contributions are determined and paid which are required for other benefits provided under the retirement system for the respective groups of members who are included under this section.

Notwithstanding any other provision of this charter, any member of the salvage corps in the fire department, or any person employed by the city and county to perform duties now performed under the titles of pilot of fire boats, marine engineer of fire boats, or marine fireman of fire boats, who becomes incapacitated for performance of his duty by reason of any bodily injury received in, or illness caused by, the performance of his duty, shall receive the same benefits as members of the fire department who are members of the retirement system under Section 8.567 of the charter.

#### **A8.562 CREDIT FOR SERVICE IN UNDERWRITERS' FIRE PATROL**

Any person who is a member under Section 8.568 on February 1, 1970, and who was employed in the uniformed force of the Underwriters' Fire Patrol of San Francisco prior to becoming such a member shall have the right to elect to make contributions pursuant to this section and to receive credit as service under the retirement system for all or any part of the time he was so employed.

Said election shall be made in writing on a form provided by the retirement system and filed with the retirement board within 90 days after February 1, 1970.

Any such member who elects to make contributions and receive such credit shall contribute to the retirement fund an amount equal to the sum of:

(a) contributions computed by applying the rate of contribution applicable to him on the date he elected to receive credit for such service to the monthly compensation earnable by him on said date multiplied by the number of months of such service for which he has elected to receive credit; and

(b) interest on the unpaid balance of said contributions, commencing on the date of the member's election to make such contributions, at the rate of interest currently being used from time to time under the retirement system.

Payment of the contributions required by this section shall be made in a lump sum or by installment payments. Installment payments shall be made at times and in a manner fixed by the retirement board, provided that the period for completion of such payments shall not extend beyond the effective date of the member's retirement.

Upon completion of payment of contributions in the amount specified in this section, the member shall be credited with service under the retirement system in an amount equal to the service for which he has elected to receive credit pursuant to this section. The service with which the member is so credited shall be credited as current service.

#### **A8.565 MEMBERS OF FIRE DEPARTMENT ON JANUARY 8, 1932**

Persons who are members of the fire department on the eighth day of January, 1932, shall become members of the retirement system on the date, subject only to the following provisions, in addition to the



provisions contained in Sections 3.670—3.672, 8.500—8.502, 8.510, 8.511, 8.520, and 8.560 of this charter.

(a) Any member of the fire department who shall have completed 25 years of continuous service as a member of the fire department next preceding the date of his retirement, or any member of the fire department who shall have reached the age of 55 years and shall have completed 20 years of continuous service as a member of the fire department next preceding the date of his retirement, may retire from service at his option. Any member of the fire department who shall become physically disabled by reason of any bodily injury received in the performance of his duty may be retired from service on satisfactory proof thereof. The retirement board, by unanimous vote, may retire from service any aged, disabled or infirm member of the fire department who has arrived at the age of 60 years and who has completed 20 years of continuous service as a member of the department next preceding such age, who may be ascertained to be, by reason of such age, infirmity or other disability, unfit for the performance of his duties.

Such retired member shall receive a monthly pension, payable throughout his life, equal to one-half the amount of the salary attached to the rank held by him three years prior to the date of his retirement hereinafter referred to as "pension" in this and the following section; provided that where such retirement is based on disability alone, in case the disability of such member shall cease, his pension shall cease, and he shall be restored to service in the rank he occupied at the time of his retirement. Should any said retired member die leaving a widow, who shall have been married to the decedent at least one year prior to the date of his retirement, such widow shall, as long as she may live and remain unmarried, be paid said pension; provided, further, that the widow of any said retired member who married said member after the effective date of his retirement and at least one year prior to his death shall be paid pension for time after December 31, 1974, as long as she may live and remain unmarried; provided, further, that should widow die leaving a child or children under the age of 16 years, said pension shall continue to be paid such children collectively until the youngest child arrives at

the age of 16 years; and provided further, that should said retired member die leaving no widow but leaving an orphan child or children under the age of 16 years, such child or children collectively shall receive said pension until the youngest child attains the age of 16 years.

(b) The family of any member of the fire department who shall die as a result of any injury received during the performance of his duty, or from sickness clearly, unmistakably and directly caused by and resulting from the discharge of such duty, or while eligible for a pension on account of years of service in the department, or who has served 20 consecutive years in the department and attained the age of 55 years, shall receive the following benefits.

First, should the decedent leave a widow to whom he was married prior to the date of the injury resulting in death, his widow shall, as long as she may live and remain unmarried, be paid a monthly pension equal to one-half of the salary attached to the rank held by the decedent at the time of his said injury; provided that the widow of any said retired member who married said member after the effective date of his retirement and at least one year prior to his death shall be paid pension for time after December 31, 1974, as long as she may live and remain unmarried; provided, however, that should said widow die, leaving a child or children under the age of 16 years, said pension shall continue to such child or children collectively until the youngest child arrives at the age of 16 years.

Second, should the decedent leave no widow, but leave an orphan child or children under the age of 16 years, such child or such children collectively shall receive said pension until the youngest child attains the age of 16 years.

Third, should the decedent leave no widow and no orphan child or children, but leave a parent or parents dependent solely upon him for support, such parents so depending shall collectively receive said pension during such time as the retirement board may unanimously determine its necessity.

(c) When any member of the department shall die from natural causes and before retirement, and when no pension is payable to his widow or children, there shall be paid to his estate or beneficiary a death benefit, the amount of which and the conditions for the

payment of which shall be determined in the manner prescribed by the board of supervisors for the death benefit of other members of the retirement system.

Upon the death of a member after retirement and regardless of the cause of death, a death benefit shall be paid to his estate or designated beneficiary, the amount of which and the conditions for payment of which shall be determined in the manner prescribed by the board of supervisors for the payment of a similar death benefit upon the death of other retired members.

(d) In addition to the other contributions required of the city and county under the retirement system, the city and county shall contribute to the retirement system during each fiscal year a sum which shall be equal to the liabilities accruing under the retirement system because of service rendered during such year by persons becoming members on the eighth day of January, 1932, under this section. If, subsequent to such fiscal year, it shall be determined that such contribution by the city and county was not sufficient to meet such liability, then the city and county shall make such additional contribution as may be necessary to make up the deficit.

(e) No benefits shall be provided under the retirement system for, nor shall any contributions be required of, persons who become members of the retirement system under this section, in addition to the benefits specifically provided and contributions specifically required in such section. Any pension payable because of the death or retirement of any such person shall be reduced in the manner fixed by the board of supervisors, by the amount of any benefits payable to or on account of such person, under the Workers' Compensation Insurance and Safety Law of the State of California.

(f) Persons who are members of the fire department on the eighth day of January, 1932, shall have the option, to be exercised in writing on or before the first day of July, 1932, of becoming members of the retirement system under the provisions of Section 8.567, which applies to persons who become members of the department after the eighth day of January, 1932. If such persons shall affirmatively exercise such option within the time specified, then they shall not receive any benefit under this section, but shall become members of the retirement system and shall receive benefits and make contributions on the same basis as persons who become members of the department after the eighth

day of January, 1932, provided that a pension for each person affirmatively exercising such option shall be payable on account of service rendered to the city and county prior to the eighth day of January, 1932, by contributions of the city and county, which pension shall be the same percentage, regardless of the age of retirement of his final compensation, as defined by the board of supervisors, for each year of service, as the contributions of the member and the city and county are calculated to provide upon retirement at age 55 for each year of service rendered as a member of the retirement system.

The amendments of Subsections (a), and (b), of this section contained in the proposition therefor submitted to the electorate on November 5, 1974, do not and shall not give any person any claim against the city and county for any pension for time prior to January 1, 1975.

#### **A8.566 FIRE DEPARTMENT—RETIRED MEMBERS AND BENEFICIARIES ON JANUARY 8, 1932**

Any member of the fire department who shall have been retired on or after January 21, 1925, or prior to January 1, 1900, and shall be receiving a pension on the eighth day of January, 1932, and any widow, child, children or parents of a deceased member of the department who shall be receiving a pension on the eighth day of January, 1932, shall continue to receive such pension subject to the provisions of Section 8.565 governing the payment of pensions to retired members, widows, children and parents. Any member of the fire department who shall have been retired on or after the first day of January, 1900, and prior to the 21st day of January, 1925, and shall be receiving a pension on the eighth day of January, 1932, shall continue to receive such pension throughout his life, subject to the provisions of Section 8.565 governing the payment of pensions granted because of disability incurred in the performance of duty, including the payment of such pension to widows, children and parents of deceased members who had been retired because of such disability. Such pensions shall be paid by the retirement system, but no other benefits shall be provided for such retired members, widows, children or parents; except that upon the death of any such member who is receiving a pension under this section and regardless of the cause of death, a death benefit shall be paid to his

estate or designated beneficiary, the amount of which shall be determined in the manner prescribed by the board of supervisors.

#### **A8.567 MEMBERS OF THE FIRE DEPARTMENT—JANUARY 8, 1932 TO JULY 1, 1949**

Persons who become members of the fire department after the eighth day of January, 1932 and prior to July 1, 1949, shall become members of the retirement system subject only to the following provision in addition to the provisions contained in Sections 3.670—3.672, 8.500—8.502, 8.510, 8.511, 8.520, 8.525 and 8.560 of this charter. No member of the retirement system shall be retired, except in case of disability incapacitating him for the performance of his duties, unless he shall have attained the age of 55 years and completed 20 years of continuous service, except that retirement shall be compulsory at the age of 70 years. It may be provided, however, under such retirement system, that members may retire after 30 years of continuous service; the benefits at retirement in such cases to be determined, because of retirement at an age below 55, in accordance with the tables recommended by the actuary and approved by said retirement board.

#### **A8.568 MEMBER OF THE FIRE DEPARTMENT AFTER JULY 1, 1949**

Members of the fire department, as defined in Section 8.569, who are members of the retirement system under Sections 8.507, 8.509, or 8.567 of the charter on the first day of July, 1949, and persons who become members of said department after said date, shall be members of the retirement system under this Section 8.568 on and after said date, and shall be subject to the following provisions of Section 8.568 and Sections 8.569, 8.570, 8.571, 8.572, 8.573, 8.575, 8.576, 8.577, 8.578, 8.579, 8.580, 8.581 in addition to the provisions contained in Sections 3.670—3.672, 8.500—8.504, 8.506, 8.510 and 8.520 of this charter notwithstanding the provisions of any other section of the charter. Members of the said department who are members of the retirement system under Sections 8.507 or 8.509 of the charter, on July 1, 1950, however, shall have the option to be exercised in writing, on a form furnished by the retirement system and to be filed at the office of said system not later than 90 days after said date, of being

members of the system under Sections 8.507 or 8.509 instead of Section 8.568, the election under said option to be effective on said date, provided, that members who are absent by reason of service in the armed forces of the United States or by reason of any other service included in Section 8.520 of the charter, on July 1, 1949, shall have the same option of electing to be members under Sections 8.507 or 8.509, as the case may be, instead of Section 8.568 until 90 days after their return to service in the fire department. On and after said date the persons who affirmatively exercise said option, shall continue to be members of the system under Section 8.507 or 8.509, respectively, and shall not be subject to any of the provisions of Section 8.568.

#### **A8.569 DEFINITIONS**

The following words and phrases as used in this section, unless a different meaning is plainly required by the context, shall have the following meaning:

“Retirement allowance,” “death allowance” or “allowance,” shall mean equal monthly payments, beginning to accrue upon the date of retirement, or upon the day following the date of death, as the case may be, and continuing for life unless a different term of payment is definitely provided by the context.

“Compensation,” as distinguished from benefits under the Workers’ Compensation Insurance and Safety Act of the State of California, shall mean the remuneration payable in cash, by the city and county, without deduction except for absence from duty, for time during which the individual receiving such remuneration is a member of the fire department, but excluding remuneration paid for overtime.

“Compensation earnable” shall mean the compensation which would have been earned had the member received compensation without interruption throughout the period under consideration and at the rates of remuneration attached at that time to the ranks or positions held by him during such period, it being assumed that during any absence he was in the rank or position held by him at the beginning of the absence, and that prior to becoming a member of the fire department, he was in the rank or position first held by him in such department.

“Benefit” shall include “allowance,” “retirement allowance,” “death allowance” and “death benefit.”

“Final compensation” shall mean the monthly compensation earnable by a member at the time of his



retirement, or death before retirement, as the case may be, at the rate of remuneration attached at that time to the rank or position which said member held, provided that said member has held said rank or position for at least one year immediately prior to said retirement or death; and provided, further, that if said member has not held said rank or position for at least one year immediately prior to said retirement or death, "final compensation," as to such member, shall mean the monthly compensation earnable by such member in the rank or position next lower to the rank or position which he held at the time of retirement or death at the rate of remuneration attached at the time of said retirement or death to said next lower rank or position; provided, however, that in the case of a member's death before retirement as the result of a violent traumatic injury received in the performance of his duty, "final compensation," as to such member shall mean the monthly compensation earnable by such member at the rate of remuneration attached on the date he receives such injury to the rank or position held by such member on that date.

The amendment of the definition of "final compensation" contained in the proposition therefor submitted to the electorate on June 6, 1972, shall be retroactive and shall be applicable to any death allowance first effective on or after July 1, 1971. Said amendment does not and shall not increase any death allowance first in effect prior to July 1, 1971, nor shall said amendment give any person receiving a death allowance, or his successors in interest any claim against the city and county for any increase in any death allowance paid or payable for time prior to July 1, 1971.

For the purpose of the retirement system and of this section, the terms "member of the fire department," "member of the department," or "member" shall mean any officer or employee of the fire department, excluding such officers and employees as are members of the retirement system under Section 8.565 of the charter, who was or shall be subject to the charter provisions governing entrance requirements of members of the uniformed force of said department, and said terms further shall mean, from the effective date of their employment in said department, persons employed on July 1, 1949, or employed thereafter, regardless of age, to perform the duties performed under the titles of pilot of fireboats or marine engineer of fireboats, or employed after

July 1, 1949, at an age not greater than the maximum age then prescribed for entrance into employment in said uniformed force, to perform the duties now performed by members of the salvage corps in the fire department, or duties now performed under the title of hydrant-gateman. Any fire service performed by such member of the fire department outside the limits of the city and county and under orders of a superior officer of any such member, shall be considered as city and county service, and any disability or death incurred therein shall be covered under the provisions of the retirement system.

"Retirement system" or "system" shall mean San Francisco City and County Employees' Retirement System as created in Section 8.500 of the charter.

"Retirement board" shall mean "retirement board" as created in Section 3.670 of the charter.

"Charter" shall mean the charter of the City and County of San Francisco.

Words used in the masculine gender shall include the feminine and neuter genders, and singular numbers shall include the plural and the plural the singular.

"Interest" shall mean interest at the rate adopted by the retirement board.

#### **A8.570 SERVICE RETIREMENT**

Any member of the fire department who completes at least 25 years of service in the aggregate and attains the age of 50 years, said service to be computed under Section 8.578, may retire for service at his option. Members shall be retired on the first day of the month next following the attainment by them of the age of 65 years. A member retired after meeting the service and age requirements in the two sentences next preceding, shall receive a retirement allowance equal to 55 percent of the final compensation of said member, as defined in Section 8.569, plus an allowance at the rate of three percent of said final compensation, for each year of service rendered in excess of 25 years; provided, however, that such retirement allowance shall not exceed 70 percent of said member's final compensation. A member retired after attaining the age of 65 years, but before completing 25 years of service in the aggregate computed under Section 8.578, shall receive a retirement allowance which bears the same ratio to 50 percent of the final compensation of said member, as defined in Section 8.569, as the service with which he is entitled to be credited, bears to 25 years. If, at the



date of retirement for service, or retirement for disability resulting from an injury received in performance of duty, said member has no wife, children or dependent parents, who would qualify for the continuance of the allowance after death of said member, or with respect to the portion of the allowance which would not be continued regardless of dependents, or upon retirement for disability resulting from other causes, with respect to all of the allowance and regardless of dependents at retirement, a member retired under this section, or Section 8.571, may elect before the first payment of the retirement allowance is made, to receive the actuarial equivalent of his allowance or the portion which would not be continued regardless of dependents, as the case may be, partly in a lesser allowance to be received by him throughout his life, and partly in other benefits payable after his death to another person or persons, provided that such election shall be subject to all the conditions prescribed by the board of supervisors to govern similar election by other members of the retirement system, including the character and amount of such other benefits.

#### **A8.571 RETIREMENT FOR INCAPACITY**

Any member of the fire department who becomes incapacitated for the performance of his duty by reason of any bodily injury received in, or illness caused by performance of his duty, shall be retired. If he is not qualified for service retirement, he shall receive a retirement allowance in an amount which shall be equal to the same percentage of the final compensation of said member, as defined in Section 8.569, as his percentage of disability is determined to be. The percentage of disability shall be as determined by the Workers' Compensation Appeal Board of the State of California upon referral from the retirement board for that purpose; provided that the retirement board may, by five affirmative votes, adjust the percentage of disability as determined by said appeals board; and provided, further, that such retirement allowance shall be in an amount not less than 50 percent nor more than 90 percent of the final compensation of said member, as defined in Section 8.569. Said allowance shall be paid to him until the date upon which said member would have qualified for service retirement had he lived and rendered service without interruption in the rank held by him at retirement, and after said date the allowance payable

shall be equal to the retirement allowance said member would have received if retired for service on said date based on the final compensation, as defined in Section 8.569, he would have received immediately prior to said date, had he lived and rendered service as assumed, but such allowance shall not be less than 55 percent of such final compensation.

If at the time of retirement because of disability, he is qualified as to age and service for retirement under Section 8.570, he shall receive an allowance equal to the retirement allowance which he would receive if retired under Section 8.570, but not less than 55 percent of said final compensation. Any member of the fire department who becomes incapacitated for performance of his duty, by reason of a cause not included under the provisions of the immediately preceding sentences, and who shall have completed at least 10 years of service in the aggregate, computed as provided in Section 8.578, shall be retired upon an allowance of one and one-half percent of the final compensation of said member as defined in Section 8.569 for each year of service, provided that said allowance shall not be less than 33 percent of said final compensation; provided, however, that if such member has completed at least 25 years of service in the aggregate, computed as provided in Section 8.578, but has not yet attained the age of 50 years, he shall receive an allowance equal to the retirement allowance he would have received if he had attained the age of 50 years and retired under Section 8.570 as of the date of retirement for such incapacity. The question of retiring a member under this section may be brought before the retirement board on said board's own motion, by recommendation of the fire commission, or by said member or his guardian. If his disability shall cease, his retirement allowance shall cease, and he shall be restored to the service in the rank he occupied at the time of his retirement.

The amendments of this Section 8.571 contained in the proposition therefor submitted to the electorate on November 7, 1972, are hereby declared to be retroactive and shall be applicable to members who retired after October 1, 1970.

#### **A8.572 DEATH ALLOWANCE**

If a member of the fire department shall die before or after retirement by reason of an injury received in, or illness caused by the performance of his duty, a death allowance, in lieu of any allowance

payable under any other section of the charter or by ordinance, on account of death resulting from injury received in or illness caused by the performance of duty, shall be paid, beginning on the date next following the date of death, to his surviving wife throughout her life or until her remarriage. If the member, at the time of death, was qualified for service retirement, but had not retired, the allowance payable shall be equal to the retirement allowance which the member would have received if he had been retired for service on the day of death, but such allowances shall not be less than 55 percent of the final compensation earnable by said member immediately preceding death. If death occurs prior to qualification for service retirement, the allowance payable shall be equal to the final compensation of said member at the date of death, until the date upon which said member would have qualified for service retirement, had he lived and rendered service without interruption in the rank held by him at death, and after said date the allowance payable shall be equal to the retirement allowance said member would have received if retired for service on said date, based on the final compensation he would have received immediately prior to said date, had he lived and rendered service as assumed, but such allowance shall not be less than 55 percent of such monthly final compensation. If he had retired prior to death, for service or for disability resulting from injury received in, or illness caused by the performance of duty, the allowance payable shall be equal to the retirement allowance of the member except that if he was a member under Section 8.568 and retirement was for such disability, and if death occurred prior to qualification for the service retirement allowance, the allowance continued shall be reduced upon the date at which said member would have qualified for service retirement, in the same manner as it would have been reduced had the member not died. If there be no surviving wife entitled to an allowance hereunder, or if she die or remarry before every child of such deceased member attains the age of 18 years, then the allowance which the surviving wife would have received had she lived and not remarried shall be paid to his child or children under said age, collectively, to continue until every such child dies or attains said age, provided that no child shall receive any allowance after marrying or attaining the age of 18 years. Should said member leave no surviving wife and no children under the age

of 18 years, but leave a parent or parents dependents upon him for support, the parents so dependent shall collectively receive a monthly allowance equal to that which a surviving widow otherwise would have received, during such dependency. No allowance, however, shall be paid under this section to a surviving wife following the death of a member unless she was married to the member prior to the date of the injury or onset of the illness which results in death.

#### **A8.573 PAYMENTS TO SURVIVING DEPENDENTS**

Upon the death of a member of the fire department resulting from any cause, other than an injury received in or illness caused by performance of duty:

(a) if his death occurred after qualification for service retirement, under Section 8.570, or after retirement for service or because of disability which resulted from any cause other than an injury received in, or illness caused by performance of duty, three-fourths of his retirement allowance to which the member would have been entitled if he had retired for service at the time of death or three-fourths of the retirement allowance as it was at his death, as the case may be, shall be continued throughout life or until remarriage, to his surviving wife; or

(b) if his death occurred after the completion of at least 25 years of service in the aggregate but prior to the attainment of the age of 50 years, three-fourths of the retirement allowance to which he would have been entitled under Section 8.570 if he had attained the age of 50 years on the date of his death shall be continued throughout life or until remarriage to his surviving wife; or

(c) if his death occurred after retirement for disability by reason of injury received in, or illness caused by performance of duty, his retirement allowance as it was at his death shall be continued throughout life or until remarriage, to his surviving wife, except that, if death occurred prior to qualification for service retirement allowance, the allowance continued shall be adjusted upon the date of which said member would have qualified for service retirement, in the same manner as it would have been adjusted had the member not died; or

(d) if his death occurred after completion of at least 10 years of service in the aggregate, computed as provided in Section 8.578, an allowance in an amount

equal to the retirement allowance to which the member would have been entitled pursuant to Section 8.571 if he had retired on the date of death because of incapacity for performance of duty resulting from a cause other than bodily injury received in, or illness caused by performance of duty shall be paid throughout life or until remarriage to his surviving wife. If there be no surviving wife entitled to an allowance hereunder, or if she die or remarry before every child of such deceased member attains the age of 18 years, then the allowance which the surviving wife would have received had she lived and not remarried shall be paid to his child or children under said age, collectively, to continue until every such child dies or attains said age, provided that no child shall receive any allowance after marrying or attaining the age of 18 years. Should said member leave no surviving wife and no children under age of 18 years, but leave a child or children, regardless of age, dependent upon him for support because partially or totally disabled and unable to earn a livelihood or a parent or parents dependent upon him for support, the child or children and the parents so dependent shall collectively receive a monthly allowance equal to that which a surviving wife otherwise would have received, during such dependency. No allowance, however, shall be paid under this section to a surviving wife unless she was married to the member prior to the date of the injury or onset of the illness which results in death if he had not retired, or unless she was married to the member at least one year prior to his death if he had retired.

As used in this section and in Section 8.572, "surviving wife" shall mean and include a surviving spouse, and shall also mean and include a spouse who has remarried since the death of the member but whose remarriage has been terminated by death, divorce or annulment within five years after the date of such remarriage and who has not thereafter again remarried.

The surviving wife, in the event of death of the member after qualification for but before service retirement, may elect before the first payment of the allowance, to receive the benefit provided in Section 8.576, in lieu of the allowance which otherwise would be continued to her under this section. If there be no surviving wife, the guardian of the eligible child or children may make such election, and if there be no such children, the dependent parent or parents may

make such election. Persons heretofore retired under charter Section 8.567, as members of the fire department at the time of retirement, shall be subject to the provisions of this section. "Qualified for service retirement," "qualification for service retirement" or "qualified as to age and service for retirement," as used in this section and other sections to which persons who are members under Section 8.568 are subject, shall mean completion of 25 years of service and attainment of age 50, said service to be computed under Section 8.578.

The amendments of this Section 8.573 contained in the proposition therefor submitted to the electorate on November 7, 1972, are hereby declared to be retroactive and shall be applicable to members who died after October 1, 1970.

#### **A8.574 ADJUSTMENT OF ALLOWANCES**

Every allowance based on the average monthly compensation earnable by the member during the 10 years prior to retirement, and payable for time commencing on February 1, 1957, to or on account of persons who were retired, as members under Section 8.567, for disability resulting from bodily injury received in the performance of duty, shall be adjusted to the amount it would be, if it had been based on the monthly compensation fixed by the board of supervisors as of July 1, 1956, for the rank or position held by such retired member in the fire department prior to retirement. This section does not authorize any decrease in any allowance from the amount being paid as of February 1, 1957, nor does this section give any retired member, or any beneficiary of such member, or his successors in interest, any claim against the city and county for any increase in any allowance paid or payable for the time prior to February 1, 1957. Adjustment in reserves under allowances which are changed according to this section, shall be made on the basis of current interest rate and mortality tables.

The increase in the retirement allowance shall be apportioned according to service rendered by the member in the same manner that the allowance prior to increase was apportioned. Contributions to the retirement system, necessary for the payment of the increase of the portion of the retirement allowances which is paid from reserves held by the retirement system, shall be provided from the reserves held by the retirement system on account of members under



Section 8.568, the necessary amount being transferred upon February 1, 1957, from said reserves to the reserves held by the retirement system to meet the obligations on account of benefits that have been granted and on account of prior service of members. The contribution being required of the city and county currently, as a percentage of salaries of persons who are members under Section 8.568, shall be increased to a percentage determined by the actuary as necessary to replace the reserves so transferred. Contributions to the retirement system necessary for the payment of said increases with reference to current and prior service portions of the allowance which are not paid from reserves held by the retirement system, shall be paid to the system by the city and county by annual appropriations, provided that such appropriation for any year shall not be less than the amount disbursed during that year on account of said increases.

#### **A8.575 ADJUSTMENT FOR COMPENSATION PAYMENTS**

That portion of any allowance payable because of the death or retirement of any member of the fire department which is provided by contributions of the city and county, shall be reduced in the manner fixed by the board of supervisors, by the amount of any benefits other than medical benefits, payable to or on account of such person, under the Workers' Compensation Insurance and Safety Law of the State of California and because of the injury or illness resulting in said death or retirement. Such portion which is paid because of death or retirement which resulted from injury received in, or illness caused by performance of duty, shall be considered as in lieu of all benefits, other than medical benefits, payable to or on account of such person under said law of the State of California and shall be in satisfaction and discharge of the obligation of the city and county to pay such benefits.

#### **A8.576 DEATH BENEFIT**

If a member of the fire department shall die, before retirement, from causes other than an injury received in or illness caused by the performance of duty, or regardless of cause, if no allowance shall be payable under Section 8.572 or 8.573 preceding, a death benefit shall be paid to his estate or designated beneficiary, the amount of which and the conditions for the payment of which shall be determined in the

manner prescribed by the board of supervisors for the death benefit of other members of the retirement system. Upon the death of a member after retirement and regardless of the cause of death, a death benefit shall be paid to his estate or designated beneficiary the amount of which and the conditions for the payment of which shall be determined in the manner prescribed by the board of supervisors for the death benefit of other members of the retirement system.

#### **A8.577 REFUNDS AND REDEPOSITS**

Should any member of the fire department cease to be employed as such member, through any cause other than death or retirement or transfer to another office or department, all of his contributions, with interest credited thereon, shall be refunded to him subject to the conditions prescribed by the board of supervisors to govern similar terminations of employment of other members of the retirement system. If he shall again become a member of the department, he shall redeposit in the retirement fund, the amount refunded to him. Contributions, with interest, which are credited because of service rendered in any other office or department and which will not be counted under Section 8.578, to any person who becomes a member of the retirement system under this sections, shall be refunded to him forthwith. Should a member of the fire department become an employee of any other office or department, his accumulated contribution account shall be adjusted by payment, to or from him as the case may be to make the accumulated contributions credited to him at the time of change, equal to the amount which would have been credited to him if he had been employed in said other office or department at the rate of compensation received by him in the fire department and he shall receive credit for service for which said contributions were made, according to the charter section under which his membership in the retirement system continues.

#### **A8.578 COMPUTATION OF SERVICE**

The following time shall be included in the computation of the service to be credited to a member of the fire department for the purposes of determining whether such member qualified for retirement, and calculating benefits, excluding, however, any time, the contributions for which were withdrawn by said member upon termination of his service while he was



a member under any other charter section, and not redeposited upon re-entry into service:

(a) Time during and for which said member is entitled to receive compensation because of services as a member of the fire or police department.

(b) Time during which said member is entitled to receive compensation while a member of the retirement system, because of service rendered in other offices and departments prior to July 1, 1949, provided that accumulated contributions on account of such service, previously refunded, are redeposited, with interest from date of refund to date of redeposit, at times and in the manner fixed by the retirement board and solely for purpose of determining qualification for retirement under Section 8.571 for disability not resulting from injury received in, or illness caused by performance of duty, time during which said member serves, after July 1, 1949, and receives compensation because of services rendered in other offices and departments.

(c) Time during which said member is absent from a status included in Subsections (a) and (b) next preceding, by reason of service in the armed forces of the United States of America, or by reason of any other service included in Section 8.520 of the charter, during any war in which the United States was or shall be engaged or during other national emergency, and for which said member contributed or contributes to the retirement system or for which the city and county contributed or contributes on his account.

#### **A8.579 SOURCES OF FUNDS**

All payments provided for members under Section 8.568 shall be made from funds derived from the following sources, plus interest earned on said funds:

(a) The normal rate of contribution of each member under this section shall be based on his age taken to the next lower complete quarter year, (1) at the earlier of the dates he became a member under Section 8.507, 8.509 or 8.567, in the case of persons who are members under these sections, or (2) on his age at the date he becomes a member under Section 8.568 in the case of persons who become members on or after July 1, 1949, without credit for service counted under Section 8.578. The age of entrance into the fire department shall be determined by deducting the member's service credited under Section 8.578 as rendered prior to the date upon which his age is based

for determination of his rate of contribution according to the sentence next preceding, from said age. The normal rate of contribution of each such member, to be effective from the effective date of membership under Section 8.568, shall be such as, on the average for such member, will provide, assuming service without interruption, under Section 8.570, one-third of that portion of the service retirement allowance to which he would be entitled, without continuance to dependents, upon first qualifying as to age and service, for retirement under that section, which is based on service rendered after the date upon which his age is based for determination of his rate of contribution according to the first sentence in this paragraph, and assuming the contribution to be made from that date. The normal rate of contribution, however, shall not exceed six percent.

(b) The dependent contributions of each member under this section which shall be required of each member throughout his membership in addition to the normal contributions, and in the same manner as normal contributions, shall be such as, on the average for such member, will provide, assuming service without interruption under Section 8.570, and upon his first qualifying as to age and service for retirement under that section, one-third of the portion of his allowance, which is to be continued under Section 8.573 after his death and throughout the life of a surviving wife whose age at said death is three years less than the age of said member. If, at the date of retirement for service or retirement for disability resulting from injury received in performance of duty, said member has no wife who would qualify for the continuance of the allowance to her after the death of said member, or upon retirement for disability resulting from other causes, regardless of his marital condition, the dependent contributions with accumulated interest thereon, shall be paid to him forthwith. The dependent rate of contribution, however, shall not exceed the difference between six percent and the member's normal rate of contributions, and said dependent rate may be taken as a flat percentage of the member's normal rate, regardless of the age of qualification for service retirement.

(c) There shall be deducted from each payment of compensation made to a member under this section, a sum determined by applying the member's rates of contribution to such compensation payment. The sum

so deducted shall be paid forthwith to the retirement system. Said contribution shall be credited to the individual account of the member from whose salary it was deducted, and the total of said contributions, together with interest credited thereon in the same manner as is prescribed by the board of supervisors for crediting interest to contributions of other members of the retirement system, shall be applied to provide part of the retirement allowance granted to, or allowance granted on account of said member, or shall be paid to said member or his estate or beneficiary as provided in Sections 8.576, 8.577 and 8.578.

(d) Contributions based on time included in Subsections (a), (b) and (c) of Section 8.578, and deducted prior to July 1, 1949, from compensation of persons who become members under Section 8.568, and standing with interest thereon, to the credit of such members on the records of the retirement system on said date, shall continue to be credited to the individual accounts of said members and shall be combined with and administered in the same manner as the contributions deducted after said date.

(e) The total contributions, with interest thereon, made by or charged against the city and county and standing to its credit, in the accounts of the retirement system, on account of persons who become members under Section 8.568, shall be applied to provide the benefits under said section.

(f) The city and county shall contribute to the retirement system such amounts as may be necessary, when added to the contributions referred to in the preceding paragraphs of this Section 8.579, to provide the benefits payable under this section. Such contributions of the city and county to provide the portion of the benefits hereunder which shall be based on service rendered by each member prior to the date upon which his age is based for determination of his rate of contribution in Subsection (a) Section 8.579, shall not be less during any fiscal year than the amount of such benefits paid during said year. Such contributions of the city and county to provide the portion of the benefits hereunder which shall be based on service rendered by respective members on and after the date stated in the next preceding sentence, shall be made in annual installments, and the installment to be paid in any year shall be determined by the application of a percentage to the total

compensation paid during said year, to persons who are members under Section 8.568, said percentage to be the ratio of the value on July 1, 1949, or at the later date of a periodical actuarial valuation and investigation into the experience under the system, of the benefits thereafter to be paid under this section, from contributions of the city and county, less the amount of such contributions, and plus accumulated interest thereon, then held by said systems to provide said benefits on account of service rendered by respective members after the date stated in the sentence next preceding, to the value of said respective dates of salaries thereafter payable to said members. Said values shall be determined by the actuary, who shall take into account the interest which shall be earned on said contributions, the compensation experience of members, and the probabilities of separation by all causes, of members from service before retirement and of death after retirement. Said percentage shall be changed only on the basis of said periodical actuarial valuation and investigation into the experience under the system. Said actuarial valuation shall be made every even-numbered year and said investigation into the experience under the system shall be every odd-numbered year.

(g) To promote the stability of the retirement system through a joint participation in the result of variations in the experience under mortality, investment and other contingencies the contributions of both members and the city and county held by the system to provide the benefits under this section, shall be a part of the fund in which all other assets of said system are included. Nothing in this section shall affect the obligations of the city and county to pay to the retirement system any amounts which may or shall become due under the provisions of the charter prior to July 1, 1949, and which are represented on said effective date, in the accounts of said system by debits against the city and county.

#### **A8.580 RIGHT TO RETIRE**

Upon the completion of the years of service set forth in Section 8.570 as requisite to retirement, a member of the fire department shall be entitled to retire at any time thereafter in accordance with the provisions of said Section 8.570, and nothing shall deprive said member of said right.

### **A8.581 LIMITATION ON EMPLOYMENT DURING RETIREMENT**

No person retired as a member under Section 8.568 for service or disability and entitled to receive a retirement allowance under the retirement system shall serve in any elective or appointive position in the city and county service, including membership on boards and commissions, nor shall such person receive any payment for service rendered to the city and county after retirement, provided that service as an election officer or juror shall not be affected by this section.

### **A8.582 DEFINITION OF "FINAL COMPENSATION"—ALLOWANCES FIRST PAYABLE PRIOR TO JULY 1, 1975**

Notwithstanding any other provision of this charter, but solely with respect to the determination of the amount of each retirement allowance payable to or on account of a person who retired for service or because of disability under the provisions of Section 8.568 of the charter prior to July 1, 1975, "final compensation," for time commencing on July 1, 1975, shall mean the rate of remuneration (excluding remuneration for overtime) attached on July 1, 1975 to the rank or position upon which such person's retirement allowance was determined when first effective; provided, further, that each such allowance shall be increased or decreased as of July 1, 1990, and thereafter on the effective date of any legislation fixing the rates of compensation for firefighters under section 8.405 of this charter by an amount equal to 50% of the rate of change in the salary attached to said rank multiplied by the allowance which was payable for the month immediately preceding each July 1.

This section does not give any person retired under the provisions of said Section 8.568, or his successors in interest, any claim against the city and county for any increase in any retirement allowance paid or payable for time prior to July 1, 1975.

This section does not authorize any decrease in the amount of any allowance from the amount being paid as of June 30, 1975.

No retirement allowance to which the definition of "final compensation" as set forth in this section is applicable shall be subject to adjustment under the

provisions of Section 8.526 for time commencing July 1, 1975. Contributions, with interest credited thereon, standing to the credit of a person whose retirement allowance is subject to the provisions of this section and which were made by such person pursuant to the provisions of Section 8.526 shall, effective July 1, 1975, be combined with and administered in the same manner as such person's normal contributions. Contributions, with interest credited thereon, made by or charged against the city and county and standing to its credit on account of a person whose retirement allowance is subject to the provisions of this section and which were made by or charged against the city and county for the purposes of said Section 8.526 shall be applied to provide the benefits under this section.

### **A8.584 RETIREMENT—MISCELLANEOUS OFFICERS AND EMPLOYEES AFTER NOVEMBER 1, 1976**

Those persons who become miscellaneous officers and employees after November 1, 1976, shall be members of the retirement system subject to the provisions of Sections 8.584 and 8.584-1 through 8.584-12, in addition to the provisions contained in Sections 3.670, 3.672, 8.500, 8.510, 8.520 and 8.526 of this charter notwithstanding the provisions of any other section of the charter; provided that persons who become members under the Public Employees' Retirement System of the State of California pursuant to Section 8.506 of this charter or members of State Teachers' Retirement System of the State of California pursuant to Section 8.506-1 of this charter shall not be members of the San Francisco City and County Employees' Retirement System and provided, further, that the retirement system shall be applied to persons employed on a part-time, temporary or substitute bases only as the board of supervisors shall determine by ordinance enacted by three-fourths vote of all members of the board. Miscellaneous officers and employees who are members of the retirement system under Sections 8.507 or 8.509 of the charter prior to November 2, 1976 shall continue to be members of the system under Sections 8.507 or 8.509, as the case may be, and shall not be subject to any of the provisions of this section or Sections 8.584-1 through 8.584-12.



**A8.584-1 DEFINITIONS**

The following words and phrases as used in this section, unless a different meaning is plainly required by the context, shall have the following meaning:

"Retirement allowance," or "allowance," shall mean equal monthly payments, beginning to accrue upon the date of retirement, and continuing for life unless a different term of payment is definitely provided by the context.

"Compensation," as distinguished from benefits under the workers' compensation laws of the State of California shall mean all remuneration whether in cash or by other allowances made by the city and county, for service qualifying for credit under this section, but excluding remuneration for overtime.

"Compensation earnable" shall mean the compensation as determined by the retirement board, which would have been earned by the member had he worked, throughout the period under consideration, the average number of days ordinarily worked by persons in the same grade or class of positions as the positions held by him during such period and at the rate of pay attached to such positions, it being assumed that during any absence, he was in the position held by him at the beginning of the absence, and that prior to entering city service, he was in the position first held by him in city service.

"Benefit" shall include "allowance," "retirement allowance," and "death benefit."

"Average final compensation" shall mean the average monthly compensation earned by a member during any three consecutive years of credited service in the retirement system in which his average final compensation is the highest.

For the purposes of the retirement system and of this section, Section 8.584 and Sections 8.584-2 through 8.584-12, the terms "miscellaneous officer or employee," or "member," shall mean any officer or employee employed after November 1, 1976 who is not a member of the police or fire departments as defined in the charter for the purposes of the retirement system, provided that said terms shall not include those persons who become members under the Public Employees' Retirement System of the State of California pursuant to Section 8.506 of this charter or members of State Teachers' Retirement System of the

State of California pursuant to Section 8.506-1 of this charter.

"Retirement system" or "system" shall mean San Francisco City and County Employees' Retirement System as created in Section 8.500 of the charter.

"Retirement board" shall mean "retirement board" as created in Section 3.670 of the charter.

"Charter" shall mean the charter of the City and County of San Francisco.

Words used in the masculine gender shall include the feminine and neuter genders, and singular numbers shall include the plural and the plural the singular.

"Interest" shall mean interest at the rate adopted by the retirement board.

**A8.584-2 SERVICE RETIREMENT**

Any member who completes at least 20 years of service in the aggregate credited in the retirement system and attains the age of 50 years, or at least 10 years of service in the aggregate credited in the retirement system, and attains the age of 60 years, said service to be computed under Section 8.584-7 may retire for service at his option. Members shall be retired on the first day of the month next following the attainment by them of the age of 65 years. A member retired after reaching the age of 60 years shall receive a service retirement allowance at the rate of  $1\frac{2}{3}$  percent of said average final compensation for each year of service; provided, however, that upon the compulsory retirement of a member upon his attainment of the age of 65 years, if the allowance available to such member pursuant to the provisions of Section 8.584-6 shall be greater in amount than the service retirement allowance otherwise payable to such member under this section, then such member shall receive as his service retirement allowance, in lieu of the allowance otherwise payable under this section, an allowance computed in accordance with the formula provided in said Section 8.584-6. The service retirement allowance of any member retiring prior to attaining the age of 60 years, and after rendering 20 years or more of such service, computed under Section 8.584-7, and having attained the age of 50 years, shall be an allowance equal to the percentage of said average final compensation set forth opposite his age at retirement, taken to the preceding completed quarter year, for each year of service, computed under Section 8.584-7:



Age at Retirement	Percent for Each Year of Credited Service
50	1.0000
50¼	1.0167
50½	1.0333
50¾	1.0500
51	1.0667
51¼	1.0833
51½	1.1000
51¾	1.1167
52	1.1333
52¼	1.1500
52½	1.1667
52¾	1.1833
53	1.2000
53¼	1.2167
53½	1.2333
53¾	1.2500
54	1.2667
54¼	1.2833
54½	1.3000
54¾	1.3167
55	1.3333
55¼	1.3500
55½	1.3667
55¾	1.3833
56	1.4000
56¼	1.4167
56½	1.4333
56¾	1.4500
57	1.4667
57¼	1.4833
57½	1.5000
57¾	1.5167
58	1.5333
58¼	1.5500
58½	1.5667
58¾	1.5833
59	1.6000
59¼	1.6167
59½	1.6333
59¾	1.6500
60	1.6667

In no event shall a member's retirement allowance exceed seventy percent of his average final compensation.

Before the first payment of a retirement allowance is made, a member, retired under this section or Section 8.584-3, may elect to receive the actuarial equivalent of his allowance, partly in an allowance to be received by him throughout his life, and partly in other benefits payable after his death to another person or persons, provided that such election shall be subject to all the conditions prescribed by the board of supervisors to govern similar elections by other members of the retirement system, including the character and amount, of such other benefits; provided, however, that at any time within 30 days after the date on which his compulsory retirement would otherwise have become effective, a member who has attained the age of 65 years may elect, without right of revocation, to withdraw his accumulated contributions, said election to be exercised in writing on a form furnished by the retirement system and filed at the office of said system and a member so electing shall be considered as having terminated his membership in said system on the date immediately preceding the date on which his compulsory retirement would otherwise have become effective and he shall be paid forthwith his accumulated contributions, with interest credited thereon. Notwithstanding the provisions of Section 8.514 of this charter, the portion of service retirement allowance provided by the city and county's contributions shall be not less than \$100 per month upon retirement after thirty years of service and after attaining the age of 60 years, and provided further that as to any member within 15 years or more of service at the compulsory retirement age of 65, the portion of the service retirement allowance provided by the city and county's contribution shall be such that the total retirement allowance shall not be less than \$100 per month. In the calculations under this section of the retirement allowance of a member having credit for service in a position in the evening schools and service in any other position, separate retirement allowances shall be calculated, in the manner prescribed for each class of service, the average final compensation in each case being that for the respective class of service, provided that the aggregate retirement allowance shall be taken into account in applying the provisions of this section providing for a minimum retirement allowance. Part-time service and compensation shall be reduced to full-time service and compensation in

the manner prescribed by the board of supervisors, and when so reduced shall be applied on full-time service and compensation in the calculation of retirement allowances.

#### **A8.584-3 RETIREMENT FOR INCAPACITY**

Any member who becomes incapacitated for performance of duty because of disability determined by the retirement board to be of extended and uncertain duration, and who shall have completed at least 10 years of service credited in the aggregate, computed as provided in Section 8.584-7, shall be retired upon an allowance of 1-½ percent of the average final compensation of said member, as defined in Section 8.584-1 for each year of credited service, if such retirement allowance exceeds one-third of his average final compensation; otherwise 1-½ percent of his average final compensation multiplied by the number of years of city service which would be credited to him were such city service to continue until attainment by him of age 60, but such retirement allowance shall not exceed one-third of such average final compensation. In the calculation under this section of the retirement allowance of a member having credit for service in a position in the evening schools and service in any other position, separate retirement allowances shall be calculated, in the manner prescribed, for each class of service, the average final compensation in each case being that for the respective class of service; provided that the average final compensation upon which the minimum total retirement allowance is calculated in such case shall be based on the compensation earnable by the member in the classes of service rendered by him during the three years immediately preceding his retirement. Part-time service and compensation shall be reduced to full-time service and compensation in the manner prescribed by the board of supervisors, and when so reduced shall be applied as full-time service and compensation in the calculation of retirement allowances. The question of retiring a member under this subsection may be brought before the retirement board on said board's own motion, by recommendation of any commission or board, or by said member or his guardian. If his disability shall cease, his retirement allowance shall cease, and he shall be restored to service in the position or classification he occupied at the time of his retirement.

#### **A8.584-4 NO ADJUSTMENT FOR COMPENSATION PAYMENTS**

No modification of benefits provided in this section shall be made because of any amounts payable to or on account of any member under workers' compensation laws of the State of California.

#### **A8.584-5 DEATH BENEFIT**

If a member shall die, before retirement:

(a) If no benefit is payable under subsection (b) of this section:

(1) Regardless of cause, a death benefit shall be paid to the member's estate or designated beneficiary consisting of the compensation earnable by the member during the six months immediately preceding death, plus the member's contributions and interest credited thereon.

(2) If a member sustains a traumatic bodily injury through external and violent means in the course and scope of employment and death results within 180 days of such injury, an additional insurance benefit of 12 months of compensation earnable shall be paid to the member's estate or designated beneficiary.

(b) If, at the date of his death, he was qualified for service retirement by reason of service and age under the provisions of Section 8.584-2, and he has designated as beneficiary his surviving spouse, who was married to him for at least one full year immediately prior to the date of his death, one-half of the retirement allowance to which the member would have been entitled if he had retired for service on the date of his death shall be paid to such surviving spouse who was his designated beneficiary at the date of his death, until such spouse's death or remarriage, or if there be no surviving spouse, to the unmarried child or children of such member under the age of 18 years, collectively, until every such child dies, marries or attains the age of 18 years, provided that no child shall receive any allowance after marrying or attaining the age of 18 years. If, at the death of such surviving spouse, who was receiving an allowance under this Subsection (b), there be one or more unmarried children of such member under the age of 18 years, such allowance shall continue to such child or children, collectively, until every such child dies, marries or attains the age of 18 years, provided that no child shall receive any allowance after marrying or

attaining the age of 18 years. If the total of the payments of allowance made pursuant to this Subsection (b) is less than the benefit which was otherwise payable under Subsection (a) of this section, the amount of said benefit payable under Subsection (a) less an amount equal to the total of the payments of allowance made pursuant to this Subsection (b) shall be paid in a lump sum as follows:

(1) If the person last entitled to said allowance is the remarried surviving spouse of such member, to such spouse.

(2) Otherwise, to the surviving children of the member, share and share alike, or if there are no such children, to the estate of the person last entitled to said allowance.

The surviving spouse may elect, on a form provided by the retirement system and filed in the office of the retirement system before the first payment of the allowance provided herein, to receive the benefit provided in Subsection (a) of this section in lieu of the allowance which otherwise would be payable under the provisions of this subdivision. If a surviving spouse, who was entitled to make the election herein provided, shall die before or after making such election but before receiving any payment pursuant to such election, then the legally appointed guardian of the unmarried children of the member under the age of 18 years may make the election herein provided before any benefit has been paid under this section, for and on behalf of such children if in his judgment it appears to be in their interest and advantage, and the election so made shall be binding and conclusive upon all parties in interest.

If any person other than such surviving spouse shall have and be paid a community property interest in any portion of any benefit provided under this section, any allowance payable under this Subsection (b) shall be reduced by the actuarial equivalent, at the date of the member's death, of the amount of benefits paid to such other person.

Upon the death of a member after retirement and regardless of the cause of death, a death benefit shall be paid to his estate or designated beneficiary in the manner and subject to the conditions prescribed by the board of supervisors for the payment of a similar death benefit upon the death of other retired members.

Upon the death of a member after retirement, an allowance, in addition to the death benefit provided in the immediately preceding paragraph, shall be paid to

his surviving spouse, until such surviving spouse's death or remarriage, equal to one-half of his retirement allowance as it was prior to optional modification and prior to reduction as provided in Subsection (a) of Section 8.514 of this charter, but exclusive of the part of such allowance which was provided by additional contributions. No allowance, however, shall be paid under this paragraph to a surviving spouse unless such surviving spouse was married to said member at least one year prior to his retirement. If such retired person leaves no such surviving spouse, or if such surviving spouse should die or remarry before every child of such deceased retired person attains the age of 18 years, the allowance which such surviving spouse would have received had he or she lived and not remarried shall be paid to retired person's child or children under said age, collectively, to continue until every such child dies or attains said age, provided that no child shall receive any allowance after marrying or attaining the age of 18 years.

The amendments of this section contained in the proposition submitted to the electorate on November 6, 1984 are hereby declared to be prospective and shall not give any person a claim against the city and county relating to a death prior to ratification of this amendment by the State Legislature.

#### **A8.584-6 BENEFITS UPON TERMINATION OF MEMBERSHIP**

Should any miscellaneous member cease to be employed as such a member, through any cause other than death or retirement, all of his contributions, with interest credited thereon, shall be refunded to him subject to the conditions prescribed by the board of supervisors to cover similar terminations of employment and re-employment with and without redeposit of withdrawn accumulated contributions of other members of the retirement system, provided that, if such member is entitled to be credited with at least five years of service, he shall have the right to elect, without right of revocation and within 90 days after said termination of service, or if the termination was by lay-off, 90 days after the retirement board determines the termination to be permanent, whether to allow his accumulated contributions to remain in the retirement fund and to receive benefits only as provided in this paragraph. Failure to make such election shall be deemed an irrevocable election to



withdraw his accumulated contributions. A person who elects to allow his accumulated contributions to remain in the retirement fund shall be subject to the same age requirements as apply to other members under Section 8.584 for service retirement but he shall not be subject to a minimum service requirement. Upon the qualification of such member for retirement by reason of age, he shall be entitled to receive a retirement allowance which shall be the actuarial equivalent of his accumulated contributions and an equal amount of the contributions of the city and county, plus 1-2/3 percent of his average final compensation for each year of service credited to him as rendered prior to his first membership in the retirement system. Upon the death of such member prior to retirement, his contributions with interest credited thereon shall be paid to his estate or designated beneficiary.

#### **A8.584-7 COMPUTATION OF SERVICE**

The following time and service shall be included in the computation of the service to be credited to a member for the purpose of determining whether such member qualifies for retirement and calculating benefits:

(a) Time during which said member is a member of the retirement system under Section 8.584 and during and for which said member is entitled to receive compensation because of services as a miscellaneous officer or employee.

(b) Service in the fire and police departments which is not credited as service as a member under Section 8.584 shall count under this section upon transfer of a member of either of such departments to employment entitling him to membership in the retirement system under Section 8.584, provided that the accumulated contributions standing to the credit of such member shall be adjusted by refund to the member or by payment by the member to bring the account at the time of such transfer to the amount which would have been credited to it had the member been a miscellaneous member throughout the period of his service in either of such departments at the compensation he received in such departments.

(c) Time prior to November 2, 1976, during which said member was entitled to receive compensation while a miscellaneous member under any other section of the charter, provided that accumulated contributions on account of such service

previously refunded are redeposited with interest from the date of refund to the date of redeposit, at times and in the manner fixed by the retirement board.

(d) Prior service determined and credited as prescribed by the board of supervisors for persons who are members under Section 8.507.

(e) The board of supervisors, by ordinance enacted by a three-fourths vote of its members, may provide for the crediting as service, rendered as an employee of the federal government and service rendered as an employee of the State of California or any public entity or public agency in the State of California. Said ordinance shall provide that all contributions required as the result of the crediting of such service shall be made by the member and that no contributions therefor shall be required of the city and county.

(f) Time during which said member is absent from a status included in Subsections (a) or (b) next preceding which is not deemed absence from service under the provisions of Section 8.520 of the charter and for which such member is entitled to receive credit as service for the city and county by virtue of contributions made in accordance with the provisions of such section.

#### **A8.584-8 SOURCES OF FUNDS**

All payments provided for members under Section 8.584 shall be made from funds derived from the following sources, plus interest earned on said funds:

(a) There shall be deducted from each payment of compensation made to a member under Section 8.584 a sum equal to seven percent of such payment of compensation. The sum so deducted shall be paid forthwith to the retirement system. Said contribution shall be credited to the individual account of the member from whose salary it was deducted, and the total of said contributions, together with interest credited thereon in the same manner as is prescribed by the board of supervisors for crediting interest to contributions of other members of the retirement system, shall be applied to provide part of the retirement allowance granted to, or allowance granted on account of said member under Section 8.584, or shall be paid to said member or his estate or beneficiary as provided in Sections 8.584-5 and 8.584-6.

(b) The city and county shall contribute to the retirement system such amounts as may be necessary,



when added to the contributions referred to in Subsection (a) of this Section 8.584-8, to provide the benefits payable to members under Section 8.584. Such contributions of the city and county to provide the portion of the benefits hereunder shall be made in annual installments, and the installment to be paid in any year shall be determined by the application of a percentage to the total compensation paid during said year to persons who are members under Section 8.584, said percentage to be the ratio of the value on November 2, 1976, or at the later date of a periodical actuarial valuation and investigation into the experience under the system, of the benefits thereafter to be paid to or on account of members under Section 8.584 from contributions of the city and county, less the amount of such contributions, plus accumulated interest thereon, then held by said system to provide said benefits on account of service rendered by respective members after said date, to the value at said respective dates of salaries thereafter payable to said members. Said values shall be determined by the actuary, who shall take into account the interest which shall be earned on said contributions, the compensation experience of members, and the probabilities of separation by all causes, of members from service before retirement and of death after retirement. Said percentage shall be changed only on the basis of said periodical actuarial valuation and investigation into the experience under the system. Said actuarial valuation shall be made every even-numbered year and said investigation into the experience under the system shall be made every odd-numbered year.

(c) To promote the stability of the retirement system through a joint participation in the result of variations in the experience under mortality, investment and other contingencies, the contributions of both members and the city and county held by the system to provide benefits for members under Section 8.584 shall be a part of the fund in which all other assets of said system are included.

#### **A8.584-9 RIGHT TO RETIRE**

Upon the completion of the years of service set forth in Section 8.584-2 as requisite to retirement, a member shall be entitled to retire at any time thereafter in accordance with the provisions of said Section 8.584-2, and, except as provided in the following paragraph, nothing shall deprive said

member of said right.

Any member convicted of a crime involving moral turpitude committed in connection with his duties as an officer or employee of the city and county shall, upon his removal from office or employment, pursuant to the provisions of this charter, forfeit all rights to any benefits under the retirement system except refund of his accumulated contributions; provided, however, that if such member is qualified for service retirement by reason of service and age under the provisions of Section 8.584-2, he shall have the right to elect, without right of revocation and within 90 days after his removal from office or employment to receive as his sole benefit under the retirement system an annuity which shall be the actuarial equivalent of his accumulated contributions at the time of such removal from office or employment.

#### **A8.584-10 LIMITATION ON EMPLOYMENT DURING RETIREMENT**

(a) Except as provided in Section 8.511 of this charter and Section 8.511 of this charter and Subsection (b) of this section, no person retired as a member under Section 8.584 for service or disability and entitled to receive a retirement allowance under the retirement system shall be employed in any capacity by the city and county, nor shall such person receive any payment for services rendered to the city and county after retirement.

(b) (1) Service as an election officer or juror, or in the preparation for or giving testimony as an expert witness for or on behalf of the city and county before any court or legislative body shall not be affected by the provisions of Subsection (a) of this section.

(2) The provisions of Subsection (a) shall not prevent such retired person from serving on any board or commission of the city and county and receiving the compensation for such office, provided said compensation does not exceed \$100 per month.

(3) If such retired person is elected or appointed to a position or office which subjects him to membership in the retirement system under Section 8.584, he shall re-enter membership under Section 8.584 and his retirement allowance shall be cancelled immediately upon such re-entry. The provisions of Subsection (a) of this section shall not prevent such person from receiving the compensation for such

position or office. The rate of contribution of such member shall be the same as that for other members under Section 8.584. Such member's individual account shall be credited with an amount which is the actuarial equivalent of his annuity at the time of his re-entry, but the amount thereof shall not exceed the amount of his accumulated contributions at the time of his retirement. Such member shall also receive credit for his service as it was at the time of his retirement.

(c) Notwithstanding any provision of this charter to the contrary, should any person retired for service or disability engage in a gainful occupation prior to attaining the age of 60 years, the retirement board shall reduce that part of his monthly retirement allowance which is provided by contributions of the city and county to an amount which, when added to the amount of the compensation earnable, at the time he engages in the gainful occupation, by such person if he held the position which he held at the time of his retirement, or, if that position has been abolished, the compensation earnable by the member if he held the position from which he was retired immediately prior to its abolishment.

#### **A8.584-11 ADJUSTMENT OF ALLOWANCES**

Every retirement or death allowance payable to or on account of any member under Section 8.584 shall be adjusted in accordance with the provisions of Subsection (b) of Section 8.526 of this charter.

#### **A8.584-12 CONFLICTING CHARTER PROVISIONS**

Any section or part of any section in this charter, insofar as it should conflict with the provisions of Sections 8.584 through 8.584-11 or with any part thereof, shall be superseded by the contents of said sections. In the event that any word, phrase, clause or section of sections shall be adjudged unconstitutional, the remainder thereof shall remain in full force and effect.

#### **A8.585 MEMBERS OF THE FIRE DEPARTMENT ON AND AFTER JULY 1, 1975**

Notwithstanding the provisions of Section 8.568 of this charter, members of the fire department, as defined in Section 8.585-1, who are members of the retirement system under Section 8.568 on the effective date of this section and persons who become members of the retirement system under Section 8.568 after said

effective date and prior to July 1, 1975, shall have the option, to be exercised in writing on a form furnished by the retirement system and to be filed at the office of said system not later than June 30, 1975, of being members of the system under this section instead of said Section 8.568, the election pursuant to said option to be effective as of July 1, 1975; provided that such of said members who, during the period from the effective date of this section through June 30, 1975, are absent by reason of service in the armed forces of the United States or by reason of any other service included in Section 8.520(a) of this charter shall have the same option of electing to be members under this section instead of Section 8.568, until 90 days after their return to service in the fire department.

Those persons who become members of the fire department, as defined in Section 8.585-1, on or after July 1, 1975, and those persons who elect to be members under this section as provided in the preceding paragraph, shall be members of the system subject to the provisions of Sections 8.585, 8.585-1, 8.585-2, 8.585-3, 8.585-4, 8.585-5, 8.585-6, 8.585-7, 8.585-8, 8.585-9, 8.585-10, 8.585-11, 8.585-12 and 8.585-13 (which shall apply only to members under Section 8.585) in addition to the provisions contained in Sections 3.670 to 3.672, both inclusive, and Sections 8.500, 8.510 and 8.520 of this charter, notwithstanding the provisions of any other section of this charter, and shall not be subject to any of the provisions of Section 8.568 of this charter.

#### **A8.585-1 DEFINITIONS**

The following words and phrases as used in this section, Section 8.585 and Sections 8.585-2 through 8.585-13, unless a different meaning is plainly required by the context, shall have the following meanings:

"Retirement allowance," "death allowance" or "allowance," shall mean equal monthly payments, beginning to accrue upon the date of retirement, or upon the day following the date of death, as the case may be, and continuing for life unless a different term of payment is definitely provided by the context.

"Compensation," as distinguished from benefits under the Workers' Compensation Insurance and Safety Act of the State of California, shall mean the remuneration payable in cash, by the city and county, without deduction except for absence from duty, for time during which the individual receiving such

remuneration is a member of the fire department, but excluding remuneration paid for overtime.

"Compensation earnable" shall mean the compensation which would have been earned had the member received compensation without interruption throughout the period under consideration and at the rates of remuneration attached at that time to the ranks or positions held by him during such period, it being assumed that during any absence, he was in the rank or position held by him at the beginning of the absence, and that prior to becoming a member of the fire department he was in the rank or position first held by him in such department.

"Benefit" shall include "allowance," "retirement allowance," "death allowance" and "death benefit."

"Final compensation" shall mean the monthly compensation earnable by a member at the time of his retirement, or death before retirement, as the case may be, at the rate of remuneration attached at that time to the rank or position which said member held, provided that said member has held said rank or position for at least one year immediately prior to said retirement or death; and provided, further, that if said member has not held said rank or position for at least one year immediately prior to said retirement or death, "final compensation," as to such member, shall mean the monthly compensation earnable by such member in the rank or position next lower to the rank or position which he held at the time of retirement or death at the rate of remuneration attached at the time of said retirement or death to said next lower rank or position; provided, however, that in the case of a member's death before retirement as the result of a violent traumatic injury received in the performance of his duty, "final compensation," as to such member shall mean the monthly compensation earnable by such member at the rate of remuneration attached on the date he receives such injury to the rank or position held by such member on that date.

For the purpose of Sections 8.585 through 8.585-13, the terms "member of the fire department," "member of the department," or "member" shall mean any officer or employee of the fire department, excluding such officers and employees as are members of the retirement system under Section 8.565 or Section 8.568 of the charter, who was or shall be subject to the charter provisions governing entrance requirements of members of the uniformed force of said department, and said terms further shall mean

persons employed on July 1, 1975, or thereafter, regardless of age, to perform the duties performed under the titles of pilot of fireboats, or marine engineer of fireboats or employed after July 1, 1975, at an age not greater than the maximum age then prescribed for entrance into employment in said uniformed force, to perform the duties performed by members of the salvage corps in the fire department, or duties performed under the title of hydrant-gatemmen.

Any fire service performed by such members of the fire department outside the limits of the city and county and under orders of a superior officer of any such member, shall be considered as city and county service, and any disability or death incurred therein shall be covered under the provisions of the retirement system.

"Retirement system" or "system" shall mean San Francisco City and County Employees' Retirement System as created in Section 8.500 of the charter.

"Retirement board" shall mean "retirement board" as created in Section 3.670 of the charter.

"Charter" shall mean the charter of the City and County of San Francisco.

Words used in the masculine gender shall include the feminine and neuter genders, and singular numbers shall include the plural and the plural the singular.

"Interest" shall mean interest at the rate adopted by the retirement board.

#### **A8.585-2 SERVICE RETIREMENT**

Any member of the fire department who completes at least twenty-five (25) years of service in the aggregate and attains the age of fifty (50) years, said service to be computed under Section 8.585-10, may retire for service at his or her option. A member retired after meeting the service and age requirements in the sentence next preceding, shall receive a retirement allowance equal to fifty-five (55) percent of the final compensation of said member, as defined in Section 8.585-1, plus an allowance at the rate of four percent of said final compensation, for each year of service rendered in excess of twenty-five (25) years; provided, however, that such retirement allowance shall not exceed seventy-five (75) percent of said member's final compensation. A member retired after attaining the age of sixty-five (65) years, but before completing twenty-five (25) years of service in the aggregate computed under Section 8.585-10, shall



receive a retirement allowance which bears the same ratio to fifty (50) percent of the final compensation of said member, as defined in Section 8.585-1, as the service with which he or she is entitled to be credited, bears to twenty-five (25) years. If, at the date of retirement for service, or retirement for disability resulting from an injury received in performance of duty, said member has no spouse, children or dependent parents, who would qualify for the continuance of the allowance after the death of said member, or with respect to the portion of the allowance which would not be continued regardless of dependents, or upon retirement for disability resulting from other causes, with respect to all of the allowance and regardless of dependents at retirement, a member retired under this section, or Section 8.585-3, may elect before the first payment of the retirement allowance is made, to receive the actuarial equivalent of his or her allowance or the portion which would not be continued regardless of dependents, as the case may be, partly in a lesser allowance to be received by him or her throughout his or her life, and partly in other benefits payable after his or her death to another person or persons, provided that such election shall be subject to all the conditions prescribed by the board of supervisors to govern similar election by other members of the retirement system, including the character and amount of such other benefits.

#### **A8.585-3 RETIREMENT FOR INCAPACITY**

Any member of the fire department who becomes incapacitated for the performance of his duty by reason of any bodily injury received in, or illness caused by performance of his duty, shall be retired. If he is not qualified for service retirement, he shall receive a retirement allowance in an amount which shall be equal to the same percentage of the final compensation of said member, as defined in Section 8.585-1, as his percentage of disability is determined to be. The percentage of disability shall be as determined by the Workers' Compensation Appeals Board of the State of California upon referral from the retirement board for that purpose; provided that the retirement board may, by five affirmative votes, adjust the percentage of disability as determined by said appeals board; and provided, further, that such retirement allowance shall be in an amount not less than 50 percent nor more than 90 percent of the final compensation of said member, as defined in Section

8.585-1. Said allowance shall be paid to him until the date upon which said member would have qualified for service retirement had he lived and rendered service without interruption in the rank held by him at retirement, and after said date the allowance payable shall be equal to the retirement allowance said member would have received if retired for service on said date based on the final compensation, as defined in Section 8.585-1, he would have received immediately prior to said date, had he lived and rendered service as assumed, but such allowance, shall not be less than 55 percent of such final compensation.

If at the time of retirement because of disability, he is qualified as to age and service for retirement under Section 8.585-2, he shall receive an allowance equal to the retirement allowance which he would receive if retired under Section 8.585-2, but not less than 55 percent of said final compensation. Any member of the fire department who becomes incapacitated for performance of his duty, by reason of a cause not included under the provisions of the immediately preceding sentences, and who shall have completed at least 10 years of service in the aggregate, computed as provided in Section 8.585-10, shall be retired upon an allowance of 1-1/2 percent of the final compensation of said member as defined in Section 8.585-1 for each year of service, provided that said allowance shall not be less than 33-1/3 percent of said final compensation; provided, however, that if such member has completed at least 25 years of service in the aggregate, computed as provided in Section 8.585-10, but has not yet attained the age of 50 years, he shall receive an allowance equal to the retirement allowance he would have received if he had attained the age of 50 years and retired under Section 8.585-2 as of the date of retirement for such incapacity. The question of retiring a member under this section may be brought before the retirement board on said board's own motion, by recommendation of the fire commission, or by said member or his guardian. If his disability shall cease, his retirement allowance shall cease, and he shall be restored to the service in the rank he occupied at the time of his retirement.

#### **A8.585-4 DEATH ALLOWANCE**

If a member of the fire department shall die before or after retirement by reason of an injury received in, or illness caused by the performance of his duty, a death allowance, in lieu of any allowance



payable under any other section of the charter or by ordinance, on account of death resulting from injury received in or illness caused by the performance of duty, shall be paid, beginning on the date next following the date of death, to his surviving wife throughout her life or until her remarriage. If the member, at the time of death, was qualified for service retirement, but had not retired, the allowance payable shall be equal to the retirement allowance which the member would have received if he had been retired for service on the day of death, but such allowance shall not be less than 55 percent of the final compensation earnable by said member immediately preceding death. If death occurs prior to qualification for service retirement, the allowance payable shall be equal to the final compensation of said member at the date of death, until the date upon which said member would have qualified for service retirement, had he lived and rendered service without interruption in the rank held by him at death, and after said date the allowance payable shall be equal to the retirement allowance said member would have received if retired for service on said date, based on the final compensation he would have received immediately prior to said date, had he lived and rendered service as assumed, but such allowance shall not be less than 55 percent of such monthly final compensation. If he had retired prior to death, for service or for disability resulting from injury received in, or illness caused by the performance of duty, the allowance payable shall be equal to the retirement allowance of the member, except that if he was a member under Section 8.585 and retirement was for such disability, and if death occurred prior to qualification for the service retirement allowance, the allowance continued shall be reduced upon the date at which said member would have qualified for service retirement, in the same manner as it would have been reduced had the member not died. If there be no surviving wife entitled to an allowance hereunder, or if she dies or remarries before every child of such deceased member attains the age of 18 years, then the allowance which the surviving wife would have received had she lived and not remarried shall be paid to his child or children under said age, collectively, to continue until every such child dies or attains said age, provided that no child shall receive any allowance after marrying or attaining the age of 18 years. Should said member leave no surviving wife and no children under the age

of 18 years, but leave a parent or parents dependent upon him for support, the parents so dependent shall collectively receive a monthly allowance equal to that which a surviving widow otherwise would have received, during such dependency. No allowance, however, shall be paid under this section to a surviving wife following the death of a member unless she was married to the member prior to the date of the injury or onset of the illness which results in death.

#### **A8.585-5 PAYMENT TO SURVIVING DEPENDENTS**

Upon the death of a member of the fire department resulting from any cause, other than an injury received in or illness caused by performance of duty,

(a) if his death occurred after qualification for service retirement, under Section 8.585-2, or after retirement for service or because of disability which resulted from any cause other than an injury received in, or illness caused by performance of duty, three-fourths of his retirement allowance to which the member would have been entitled if he had retired for service at the time of death of three-fourths of the retirement allowance as it was at his death, as the case may be, shall be continued throughout life or until marriage, to his surviving wife, or

(b) if his death occurred after the completion of at least 25 years of service in the aggregate but prior to the attainment of the age of 50 years, three-fourths of the retirement allowance to which he would have been entitled under Section 8.585-2 if he had attained the age of 50 years on the date of his death shall be continued throughout life or until remarriage to his surviving wife, or

(c) if his death occurred after retirement for disability by reason of injury received in or illness caused by performance of duty, his retirement allowance as it was at his death shall be continued throughout life or until remarriage, to his surviving wife, except that, if death occurred prior to qualification for service retirement allowance, the allowance continued shall be adjusted upon the date of which said member would have qualified for service retirement, in the same manner as it would have been adjusted had the member not died, or

(d) if his death occurred after completion of at least 10 years of service in the aggregate, computed as provided in Section 8.585-10, an allowance in an

amount equal to the retirement allowance to which the member would have been entitled pursuant to Section 8.585-3 if he had retired on the date of death because of incapacity for performance of duty resulting from a cause other than bodily injury received in or illness caused by performance of duty shall be paid throughout life or until remarriage to his surviving wife. If there be no surviving wife entitled to an allowance hereunder, or if she dies or remarries before every child of such deceased member attains the age of 18 years, then the allowance which the surviving wife would have received had she lived and not remarried shall be paid to his child or children under said age, collectively, to continue until every such child dies or attains said age, provided that no child shall receive any allowance after marrying or attaining the age of 18 years. Should said member leave no surviving wife and no children under age of 18 years, but leave a child or children, regardless of age, dependent upon him for support because partially or totally disabled and unable to earn a livelihood, or a parent or parents dependent upon him for support, the child or children and the parents so dependent shall collectively receive a monthly allowance equal to that which a surviving wife otherwise would have received, during such dependency. No allowance, however, shall be paid under this section to a surviving wife unless she was married to the member prior to the date of the injury or onset of the illness which results in death if he had not retired, or unless she was married to the member at least one year prior to his death if he had retired.

As used in this section and Section 8.585-4, "surviving wife" shall mean and include a surviving spouse, and shall also mean and include a spouse who has remarried since the death of the member, but whose remarriage has been terminated by death, divorce or annulment within five years after the date of such remarriage and who has not thereafter again remarried.

The surviving wife, in the event of death of the member after qualification for but before service retirement, may elect before the first payment of the allowance, to receive the benefit provided in Section 8.585-8, in lieu of the allowance which otherwise would be continued to her under this section. If there be no surviving wife, the guardian of the eligible child or children may make such election, and if there be no such children, the dependent parent or parents may

make such election. "Qualified for service retirement," "Qualification for service retirement" or "Qualified as to age and service for retirement," as used in this section and other sections to which persons who are members under Section 8.585 are subject, shall mean completion of 25 years of service and attainment of age 50, said service to be computed under Section 8.585-10.

#### **A8.585-6 ADJUSTMENT OF ALLOWANCES**

Every retirement or death allowance payable to or on account of any member under Section 5.585 shall be increased or decreased as of July 1, 1990, and thereafter on the effective date of any legislation fixing the rates of compensation for firefighters under section 8.405 of this charter by an amount equal to 50 percent of any increase or decrease, respectively, in the rate of remuneration attached to the rank and position upon which such retirement or death allowance was based; provided, however, that no allowance shall be reduced below the amount being received by a member or his beneficiary on June 30, 1976, or on the date such member or beneficiary began to receive the allowance, whichever is later.

#### **A8.585-7 ADJUSTMENT FOR COMPENSATION PAYMENTS**

That portion of any allowance payable because of the death or retirement of any member of the fire department which is provided by contributions of the city and county, shall be reduced in the manner fixed by the board of supervisors, by the amount of any benefits other than medical benefits, payable by the city and county to or on account of such person, under any workers' compensation law or any other general law and because of the injury or illness resulting in said death or retirement. Such portion which is paid because of death or retirement which resulted from injury received in or illness caused by performance of duty, shall be considered as in lieu of all benefits, other than medical benefits, payable to or on account of such person under such law and shall be in satisfaction and discharge of the obligation of the city and county to pay such benefits.

#### **A8.585-8 DEATH BENEFIT**

If a member of the fire department shall die, before retirement from causes other than an injury received in or illness caused by the performance of

duty, or regardless of cause, if no allowance shall be payable under Section 8.585-4 or 8.585-5 preceding, a death benefit shall be paid to his estate or designated beneficiary, the amount of which and the conditions for the payment of which shall be determined in the manner prescribed by the board of supervisors for the death benefit of other members of the retirement system. Upon the death of a member after retirement and regardless of the cause of death, a death benefit shall be paid to his estate or designated beneficiary the amount of which and the conditions for the payment of which shall be determined in the manner prescribed by the board of supervisors for the death benefit of other members of the retirement system.

#### **A8.585-9 REFUNDS AND REDEPOSITS**

Should any member of the fire department cease to be employed as such a member, through any cause other than death or retirement or transfer to another office or department, all of his or her contributions, with interest credited thereon, shall be refunded to him or her subject to the conditions prescribed by the board of supervisors to govern similar terminations of employment of other members of the retirement system. If he or she shall again become a member of the department, he or she shall redeposit in the retirement fund, the amount refunded to him or her. Should a member of the fire department become an employee of any other office or department, his or her accumulated contribution account shall be adjusted by payments to or from him or her as the case may be to make the accumulated contributions credited to him or her at the time of change, equal to the amount which would have been credited to him or her if he or she had been employed in said other office or department at the rate of compensation received by him or her in the fire department and he or she shall receive credit for service for which said contributions were made, according to the charter section under which his or her membership in the retirement system continues.

#### **A8.585-10 COMPUTATION OF SERVICE**

The following time shall be included in the computation of the service to be credited to a member of the fire department for the purposes of determining whether such member qualified for retirement and calculating benefits, excluding, however, any time, the contributions for which were withdrawn by said member upon termination of his service while he was

a member under any other charter section, and not redeposited upon re-entry into service:

(a) Time during and for which said member is entitled to receive compensation because of services as a member of the fire or police department.

(b) Time during which said member is entitled to receive compensation while a member of the retirement system, because of service rendered in other offices and departments prior to July 1, 1949, provided that accumulated contributions on account of such service previously refunded, are redeposited, with interest from date of refund to date of redeposit, at times and in the manner fixed by the retirement board; and solely for purpose of determining qualification for retirement under Section 8.585-3 for disability not resulting from injury received in, or illness caused by performance of duty, time during which said member serves, after July 1, 1949, and receives compensation because of services rendered in other offices and departments.

(c) Time during which said member is absent from a status included in Subsections (a) and (b) next preceding, by reason of service in the armed forces of the United States of America, or by reason of any other service included in Section 8.520 of the charter, during any war in which the United States was or shall be engaged or during other national emergency, and for which said member contributed or contributes to the retirement system or for which the city and county contributed or contributes on his account.

#### **A8.585-11 SOURCES OF FUNDS**

All payments provided for members under Section 8.585 shall be made from funds derived from the following sources, plus interest earned on said funds:

(a) The normal rate of contribution for each member under Section 8.585 shall be based on his age taken to the next lower complete quarter year, (1) at the date he became a member under Section 8.568, in the case of persons who are members under that section, or (2) on his age at the date he becomes a member under Section 8.585 in the case of persons who become members on or after July 1, 1975, without credit for service counted under Section 8.585-10. The age of entrance into the fire department shall be determined by deducting the member's service credited under Section 8.585-10 as rendered prior to the date upon which his age is based for determination



of his rate of contribution according to the sentence next preceding, from said age. The normal rate of contribution of each such member, to be effective from the effective date of membership under Section 8.585, shall be such as, on the average for such member, will provide, assuming service without interruption, under Section 8.585-2, one-third of that portion of the service retirement allowance to which he would be entitled, without continuance to dependents, upon first qualifying as to age and service for retirement under that section, which is based on service rendered after the date upon which his age is based for determination of his rate of contribution according to the first sentence in this paragraph, and assuming the contribution to be made from that date. The normal rate of contribution, however, shall not exceed seven percent.

(b) The dependent contributions for each member under this section which shall be required of each member throughout his membership in addition to the normal contributions, and in the same manner as normal contributions, shall be such as, on the average for such member, will provide, assuming service without interruption under Section 8.585-2, and upon his first qualifying as to age and service for retirement under that section, one-third of the portion of his allowance, which is to be continued under Section 8.585-5 after his death and throughout the life of a surviving wife whose age at said death is three years less than the age of said member. If, at the date of retirement for service or retirement for disability resulting from injury received in performance of duty, said member has no wife who would qualify for the continuance of the allowance to her after the death of said member, or upon retirement for disability resulting from other causes, regardless of his marital conditions, the dependent contributions with accumulated interest thereon, shall be paid to him forthwith. The dependent rate of contribution, however, shall not exceed the difference between seven percent and the member's normal rate of contribution, and said dependent rate may be taken as a flat percentage of the member's normal rate, regardless of the age of qualification for service retirement.

(c) There shall be deducted from each payment of compensation made to a member under this section, a sum determined by applying the member's rates of

contribution to such compensation payment. The sum so deducted shall be paid forthwith to the retirement system. Said contribution shall be credited to the individual account of the member from whose salary it was deducted, and the total of said contributions, together with interest credited thereon in the same manner as is prescribed by the board of supervisors for crediting interest to contributions of other members of the retirement system, shall be applied to provide part of the retirement allowance granted to, or allowance granted on account of said member, or shall be paid to said member or his estate or beneficiary as provided in Sections 8.585-8, 8.585-9 and 8.585-10.

(d) Contributions based on time included in Subsections (a), (b) and (c) of Section 8.585-10, and deducted prior to July 1, 1975, from compensation of persons who become members under Section 8.585, and standing with interest thereon, to the credit of such members on the records of the retirement system on said date, together with contributions made by such members pursuant to the provisions of Section 8.526 and standing with interest thereon to the credit of such members on the records of the retirement system on said date, shall continue to be credited to the individual accounts of said members and shall be combined with and administered in the same manner as the contributions deducted after said date.

(e) The total contributions, with interest thereon, made by or charged against the city and county and standing to its credit, in the accounts of the retirement system, on account of persons who become members under Section 8.585, shall be applied to provide the benefits under said Section 8.585.

(f) The city and county shall contribute to the retirement system such amounts as may be necessary, when added to the contributions referred to in the preceding paragraphs of this Section 8.585-11, to provide the benefits payable to members under Section 8.585. Such contributions of the city and county to provide the portion of the benefits hereunder which shall be based on service rendered by each member prior to the date upon which his age is based for determination of his rate of contribution in Subsection (a) of this Section 8.585-11, shall not be less during any fiscal year than the amount of such benefits paid during said year. Such contributions of the city and county to provide the portion of the benefits hereunder which shall be based on service rendered by respective



members on and after the date stated in the preceding sentence, shall be made in annual installments, and the installment to be paid in any year shall be determined by the application of a percentage to the total compensation paid during said year, to persons who are members under Section 8.585, said percentage to be the ratio of the value on July 1, 1975, or at the later date of a periodical actuarial valuation and investigation into the experience under the system, of the benefits thereafter to be paid under this section, from contributions of the city and county, less the amount of such contributions, and plus accumulated interest thereon, then held by said systems to provide said benefits on account of service rendered by respective members after the date stated in the sentence next preceding, to the value of said respective dates of salaries thereafter payable to said members. Said values shall be determined by the actuary, who shall take into account the interest which shall be earned on said contributions, the compensation experience of members and the probabilities of separation by all causes, of members from service before retirement and of death after retirement. Said percentage shall be changed only on the basis of said periodical actuarial valuation and investigation into the experience under the system. Said actuarial valuation shall be made every even-numbered year and said investigation into the experience under the system shall be every odd-numbered year.

(g) To promote the stability of the retirement system through a joint participation in the result of variations in the experience under mortality, investment and other contingencies the contributions of both members of the city and county held by the system to provide the benefits under this section, shall be a part of the fund in which all other assets of said system are included. Nothing in this section shall affect the obligations of the city and county to pay to the retirement system any amounts which may or shall become due under the provisions of the charter prior to July 1, 1975, and which are represented on said effective date, in the accounts of said system by debits against the city and county.

#### **A8.585-12 RIGHT TO RETIRE**

Upon the completion of the years of service set forth in Section 8.585-2 as requisite to retirement, a

member of the fire department shall be entitled to retire at any time thereafter in accordance with the provisions of said Section 8.585-2, and nothing shall deprive said member of said right.

#### **A8.585-13 LIMITATION IN EMPLOYMENT DURING RETIREMENT**

Except as otherwise provided in section 8.511 of this charter, no person retired as a member under Section 8.585 for service or disability and entitled to receive a retirement allowance under the retirement system shall serve in any elective or appointive position in the city and county service, including membership on boards and commissions, nor shall such person receive any payment for service rendered to the city and county after retirement, provided that service as an election officer or juror, or in the preparation for, or the giving of, testimony as an expert witness for or on behalf of the City and County of San Francisco before any court or legislative body shall not be affected by this section.

#### **A8.585-14 RIGHT TO TRANSFER**

Notwithstanding any provisions of this charter to the contrary, any person who, on or after January 1, 1981, is a member of the Fire Department, and is a member of the Retirement System under Charter Section 8.585, may become a member of the Retirement System under Charter Section 8.588 by filing in writing with the Retirement System no later than December 31, 1981, an executed waiver of all benefits which might inure to him under Charter Section 8.585. This waiver must be without right of revocation and on a form furnished by the Retirement System. The Retirement Board may require that this waiver be executed by additional parties before it becomes operative.

This transfer will be effective July 1, 1980. Those persons so electing to become members under Charter Section 8.588 shall receive service credit under Charter Section 8.588 equal to their service credit under Charter Section 8.585 as of June 30, 1980.

Those persons so electing to become members under Charter Section 8.588 shall not be subject to any of those provisions of Charter Section 8.585 as of July 1, 1980.

Notwithstanding the provisions of Charter Section 8.526, the cost of living adjustment in any given year

for those persons electing this transfer to Charter Section 8.588 shall not exceed the provisions of Charter Section 8.526 as they existed on July 1, 1980.

Those persons so electing to transfer membership from Charter Section 8.585 to Charter Section 8.588 shall receive a monetary consideration not to exceed \$40,000 calculated at the rate of \$2,500 for each year of said service credit up to 10 years and then at the rate of \$1000 for each additional year of said service credit. This monetary consideration shall be paid from said member's contribution account including any interest thereon. When said member's contribution account is depleted, the balance shall be paid from the city and county contributions held by the Retirement System.

This consideration shall be payable January 1, 1982. Alternatively, an employee may elect to receive payments according to a schedule established by the Retirement Board.

Notwithstanding any other charter or ordinance provisions, no change in the provisions of Charter Section 8.588 and those provisions incorporated therein by reference, shall apply to those persons transferring pursuant to this section unless separately approved by the electorate in a separate charter amendment.

Notwithstanding any other charter or ordinance provisions except proposed Charter Section 8.588-15 as proposed to the electorate for the election of November 4, 1980, that portion of any benefits pursuant to this section, payable because of any increase in benefits under Charter Section 8.588 subsequent to July 1, 1980, shall be reduced dollar for dollar when payable not to exceed the amount of monetary consideration plus interest said member received for making this transfer.

#### **A8.585-15 VESTING**

Should any member of the fire department who is a member of the Retirement System under charter section 8.585, with five years of credited service, cease to be so employed, through any cause other than death or retirement, he or she shall have the right to elect, without right of revocation and within 90 days after termination of said service, to allow his or her accumulated contributions including interest to remain in the retirement fund and to receive a retirement benefit calculated at termination, defined as that proportion of the normal service retirement benefit

that his or her accrued service credit bears to 25 years, payable beginning at age 50.

Any member of the fire department convicted of a crime involving moral turpitude committed in connection with his or her duties as a member of the fire department shall, upon termination of his or her employment pursuant to the provisions of this charter, forfeit all right to any benefits under this section except refund of his or her accumulated contributions.

Every retirement or death allowance payable to or on account of any member under section 8.585-15 shall be adjusted in accordance with the provisions of section 8.585-6 provided that if the member's accrued service credit is less than 25 years the section 8.585-6 adjustment will be multiplied by a fraction where the denominator is 25 and the numerator is equal to the member's accrued service credit at the date of termination.

#### **A8.586 MEMBERS OF THE POLICE DEPARTMENT AFTER NOVEMBER 1, 1976**

Those persons who become members of the police department, as defined in Section 8.586-1, on or after November 2, 1976, shall be members of the system subject to the provisions of Sections 8.586, 8.586-1, 8.586-2, 8.586-3, 8.586-4, 8.586-5, 8.586-6, 8.586-7, 8.586-8, 8.586-9, 8.586-10, 8.586-11, 8.586-12, 8.586-13 and 8.586-14 (which shall apply only to members under Section 8.586) in addition to the provisions contained in Sections 3.670 to 3.672, both inclusive, and Sections 8.500, 8.510, 8.520 and 8.526 of this charter, notwithstanding the provisions of any other section of this charter, and shall not be subject to any of the provisions of Sections 8.544 or 8.559 of this charter.

#### **A8.586-1 DEFINITIONS**

The following words and phrases as used in this section, Section 8.586 and Sections 8.586-2 through 8.586-14, unless a different meaning is plainly required by the context, shall have the following meanings:

"Retirement allowance," "death allowance" or "allowance," shall mean equal monthly payments, beginning to accrue upon the date of retirement, or upon the day following the date of death, as the case may be, and continuing for life unless a different term of payment is definitely provided by the context.

"Compensation," as distinguished from benefits

under the Workers' Compensation Insurance and Safety Act of the State of California, shall mean the remuneration payable in cash, by the city and county, without deduction except for absence from duty, for time during which the individual receiving such remuneration is a member of the police department, but excluding remuneration paid for overtime.

Subject to the requirement that it be payable in cash and that overtime be excluded, "compensation" for pension purposes may be defined in a collective bargaining agreement. Provided, however, that for retirement purposes, any increase in compensation attached to a rank which is based solely upon the possession of a POST certificate, compared to the equivalent rank without a POST certificate, shall be subject to the following limitations:

(a) for possession of the intermediate POST certificate, no more than 4% shall be included in compensation,

(b) for possession of the advanced POST certificate, no more than an additional 2% over the maximum provided in subsection (a), above, shall be included in compensation,

These limits shall apply to any pay increments which are solely attributable to the possession of a POST certificate, including but not limited to premiums or special ranks which may be established in the future and which are solely attributable to the possession of a POST certificate.

"Compensation earnable" shall mean the compensation which would have been earned had the member received compensation without interruption throughout the period under consideration and at the rates of remuneration attached at that time to the ranks or positions held by him or her during such period, it being assumed that during any absence, he or she was in the rank or position held by him or her at the beginning of the absence, and that prior to becoming a member of the police department, he or she was in the rank or position first held by him or her in such department.

"Benefit" shall include "allowance," "retirement allowance," "death allowance" and "death benefit."

"Final compensation" shall mean the average monthly compensation earnable by a member during any one year of credited service in which his or her average compensation is the highest.

For purposes of calculation of final compensation, any increase in pay solely attributable

to possession of a POST certificate shall be included only if the member possesses the qualifying POST certificate for a period of not less than four (4) years prior to his or her retirement date; provided, however, that should a member possess the qualifying POST certificate for a period of time less than four (4) years prior to retirement, final compensation shall be calculated based upon the monthly compensation in the next lower rank not requiring possession of the qualifying POST certificate.

For the purpose of Sections 8.586 through 8.586-14, the terms "member of the police department," "member of the department," or "member" shall mean any officer or employee of the police department employed after November 1, 1976 who was or shall be subject to the charter provisions governing entrance requirements of members of the uniformed force of said department and said terms shall further mean persons employed after November 1, 1976 at an age not greater than the maximum age then prescribed for entrance into employment in said uniformed force, to perform duties now performed under the titles of criminologist, photographer, police woman or jail matron; provided, however, that said terms shall not include any person who has not satisfactorily completed such course of training as may be required by the police department prior to assignment to active duty with said department.

"Retirement system" or "system" shall mean San Francisco City and County Employees' Retirement System as created in Section 8.500 of the charter.

"Retirement board" shall mean "retirement board" as created in Section 3.670 of the charter.

"Charter" shall mean the charter of the City and County of San Francisco.

Words used in the masculine gender shall include the feminine and neuter gender, and singular nouns shall include the plural and the plural the singular.

"Interest" shall mean interest at the rate adopted by the retirement board. (Amended November 1998)

## **A8.586-2 SERVICE RETIREMENT**

Any member of the police department who completes at least five years of service in the aggregate and attains the age of fifty (50) years, said service to be computed under Section 8.586-10, may retire for service at his or her option. A member retired after meeting the service and age requirements in the sentence next preceding, shall receive a



retirement allowance equal to the larger of (a) two percent of final compensation for each of the first twenty-five (25) years of service, then three percent of final compensation for each year of service rendered in excess of twenty-five (25) years or (b) the percent of final compensation (as defined in Section 8.586-1) set forth opposite his or her age at retirement, taken to the preceding completed quarter year, for each year of service, as computed under Section 8.586-10:

Age at Retirement	Percent for Each Year of Credited Service
50	2.000
50.25	2.035
50.5	2.070
50.75	2.105
51	2.140
51.25	2.175
51.5	2.210
51.75	2.245
52	2.280
52.25	2.315
52.5	2.350
52.75	2.385
53	2.420
53.25	2.455
53.5	2.490
53.75	2.525
54	2.560
54.25	2.595
54.5	2.630
54.75	2.665
55	2.700

In no event, however, shall such a retirement allowance exceed seventy-five (75) percent of a member's final compensation. (Amended November 1998)

#### **A8.586-3 RETIREMENT FOR INCAPACITY**

Any member of the police department who becomes incapacitated for the performance of his or her duty by reason of any bodily injury received in, or illness caused by the performance of his or her duty, shall be retired. If he or she is not qualified for service retirement, he or she shall receive a retirement allowance in an amount which shall be equal to the same percentage of the final compensation of said

member, as defined in Section 8.586-1, as his percentage of disability is determined to be. The percentage of disability shall be as determined by the Workers' Compensation Appeals Board of the State of California upon referral from the retirement board for that purpose; provided that the retirement board may, by five affirmative votes, adjust the percentage of disability as determined by said appeals board; and provided, further, that such retirement allowance shall be in an amount not less than 50 percent nor more than 90 percent of the final compensation of said member, as defined in Section 8.586-1. Said allowance shall be paid to him or her until the date upon which said member would have completed at least twenty-five (25) years of service in the aggregate and attained the age of fifty (50) years had he or she lived and rendered service without interruption in the rank held by him or her at retirement, and after said date the allowance payable shall be equal to the retirement allowance said member would have received if retired for service on said date based on the final compensation, as defined in Section 8.586-1, he or she would have received immediately prior to said date, had he or she lived and rendered service as assumed, but such allowance shall not be less than 50 percent of such final compensation.

If, at the time of retirement because of disability, he or she is qualified as to age and service for retirement under Section 8.586-2, he or she shall receive an allowance equal to the retirement allowance which he or she would receive if retired under Section 8.586-2, but not less than 50 percent of said final compensation. Any member of the police department who becomes incapacitated for performance of his or her duty by reason of a cause not included under the provisions of the immediately preceding sentences, and who shall have completed at least 10 years of service in the aggregate, computed as provided in Section 8.586-10, shall be retired upon an allowance of 1-½ percent of the final compensation of said member as defined in Section 8.586-1 for each year of service, provided that said allowance shall not be less than 33-⅓ percent of said final compensation. The question of retiring a member under this section may be brought before the retirement board on said board's own motion, by recommendation of the police commission or by said member or his or her guardian. If his or her disability shall cease, his or her retirement allowance shall cease and he or she shall be



restored to the service in the rank he or she occupied at the time of his or her retirement. (Amended November 1998)

#### **A8.586-4 DEATH ALLOWANCE**

If a member of the police department shall die before or after retirement by reason of an injury received in, or illness caused by the performance of his or her duty, a death allowance, in lieu of any allowance, payable under any other section of the charter or by ordinance, on account of death resulting from injury received in or illness caused by the performance of duty, shall be paid, beginning on the date next following the date of death, to his or her surviving spouse throughout his or her life or until his or her remarriage. If the member, at the time of death, was qualified for service retirement, but he or she had not retired, the allowance payable shall be equal to the retirement allowance which the member would have received if he or she had been retired for service on the date of death, but such allowance shall not be less than 50 percent of the final compensation earnable by said member immediately preceding death. If death occurs prior to qualification for service retirement, the allowance payable shall be equal to the compensation of said member at the date of death, until the date upon which said member would have completed at least twenty-five (25) years of service in the aggregate and attained the age of fifty (50) years, had he or she lived and rendered service without interruption in the rank held by him or her at death, and after said date the allowance payable shall be equal to the retirement allowance said member would have received if retired for service on said date, based on the final compensation he or she would have received prior to said date, had he or she lived and rendered service as assumed, but such allowance shall not be less than 50 percent of such final compensation. If he or she had retired prior to death, for service or for disability resulting from injury received in, or illness caused by the performance of duty, the allowance payable shall be equal to the retirement allowance of the member, except that if he or she was a member under Section 8.586 and retirement was for such disability, and if death occurred prior to qualification for the service

retirement allowance, the allowance continued shall be adjusted upon the date at which said member would have completed at least twenty-five (25) years of service in the aggregate and attained the age of fifty (50) years, in the same manner as it would have been adjusted had the member not died.

If there be no surviving spouse entitled to an allowance hereunder, or if he or she dies or remarries before every child of such deceased member attains the age of 18 years, then the allowance which the surviving spouse would have received had he or she lived and not remarried shall be paid to his or her child or children under said age, collectively, until every such child dies or attains said age, provided that no child shall receive any allowance after marrying or attaining the age of 18 years. Should said member leave no surviving spouse and no children under the age of 18 years, but leave a parent or parents dependent upon him or her for support, the parents so dependent shall collectively receive a monthly allowance equal to that which a surviving spouse otherwise would have received, during such dependency. No allowance, however, shall be paid under this section to a surviving spouse following the death of a member unless he or she was married to the member prior to the date of the injury or onset of the illness which results in death.

The amendments to this Section A8.586-4, approved by the electorate on November 2, 2004 shall apply to any work-related death that occurs on or after November 2, 2004, and to any qualified survivor who, on November 2, 2004, is receiving a continuation allowance under this section due to the work-related death of a member on or after January 1, 1989. Any increase in the continuation allowance payable to such a qualified survivor by virtue of the amendments to this section approved by the electorate on November 2, 2004 shall be prospective only, beginning November 2, 2004. (Amended November 1998; November 2004)

#### **A8.586-5 PAYMENT TO SURVIVING DEPENDENTS**

Upon the death of a member of the police department resulting from any cause other than an injury received in, or illness caused by performance of duty,

(a) if the death occurred after qualification for service retirement under Section 8.586-2, or after retirement service or because of disability which result from any cause other than an injury received in, or illness caused by performance of duty one-half of the retirement allowance to which the member would have been entitled if he or she had retired for service at the date of death or one-half of the retirement allowance as it was at his or her death, as the case may be, shall be continued throughout his or her life or until remarriage to his surviving wife, or

(b) if his or her death occurred after the completion of at least 25 years of service in the aggregate but prior to the attainment of the age of 50 years, one-half of the retirement allowance to which he or she would have been entitled under Section 8.586-2 if he or she had attained the age of 50 years on the date of his or her death shall be continued throughout life or until remarriage to his surviving wife, or

(c) if his or her death occurred after retirement for disability by reason of injury received in or illness caused by performance of duty, three-fourths of his or her retirement allowance as it was at his or her death shall be continued throughout life or until remarriage to his surviving wife, except that, if death occurred prior to qualification for service retirement allowance, the allowance continued shall be adjusted upon the date on which said member would have completed at least twenty-five (25) years of service in the aggregate and attained the age of fifty (50) years, in the same manner as it would have been adjusted had the member not died, or

(d) if his or her death occurred after completion of at least 10 years of service in the aggregate, computed as provided in Section 8.586-10, an allowance in an amount equal to the retirement allowance to which the member would have been entitled pursuant to Section 8.586-3 if he or she had retired on the date of death because of incapacity for performance of duty shall be paid throughout life or until remarriage to his surviving wife. If there be no surviving wife entitled to an allowance hereunder, or if she dies or remarries before every child of such deceased member attains the age of 18 years, then the allowance which the surviving wife would have

received had she lived and not remarried shall be paid to his child or children under said age, collectively, to continue until every such child dies or attains said age, provided that no child shall receive any allowance after marrying or attaining the age of 18 years. Should said member leave no surviving wife and no children, under age of 18 years, but leave a child or children, regardless of age, dependent upon him or her for support because partially or totally disabled and unable to earn a livelihood or a parent or parents dependent upon him or her for support, the child or children and the parents so dependent shall collectively receive a monthly allowance equal to that which a surviving wife otherwise would have received, during such dependency. No allowance, however shall be paid under this section to a surviving wife unless she was married to the member prior to the date of the injury or onset of the illness which results in death if he or she had not retired, or unless she was married to the member at least one year prior to his or her retirement if he or she had retired.

As used in this section and Section 8.556-4 "surviving wife" shall mean and include a surviving spouse, and shall also mean and include a spouse who has remarried since the death of the member, but whose remarriage has been terminated by death, divorce or annulment within five years after the date of such remarriage and who has not thereafter again remarried.

The surviving wife, in the event of death of the member after qualification for, but before service retirement, may elect before the first payment of the allowance, to receive the benefit provided in Section 8.586-8, in lieu of the allowance which otherwise would be continued to her under this section. If there be no surviving wife, the guardian of the eligible child or children may make such election, and if there be no such children, the dependent parent or parents may make such election. "Qualified for service retirement," "qualification for service retirement" or "qualified as to age and service for retirement," as used in this section and other sections to which persons who are members under Section 8.586 are subject, shall mean completion of 25 years of service and attainment of age 50, said service to be computed under Section 8.586-10. (Amended November 1998)

**A8.586-6 ADJUSTMENT OF ALLOWANCES**

Every retirement or death allowance payable to or on account of any member under Section 8.586 shall be adjusted in accordance with the provisions of Subsection (b) of Section 8.526 of this charter. (Amended November 1998)

**A8.586-7 ADJUSTMENT FOR COMPENSATION PAYMENTS**

That portion of any allowance payable because of the death or retirement of any member of the police department which is provided by contributions of the city and county, shall be reduced in the manner fixed by the board of supervisors, by the amount of any benefits other than medical benefits, payable by the city and county to or on account of such person, under any workers' compensation law or any other general law and because of the injury or illness resulting in said death or retirement. Such portion which is paid because of death or retirement which resulted from injury received in, or illness caused by performance of duty, shall be considered as in lieu of all benefits, other than medical benefits, payable to or on account

*[Section A8.586-7 continues on page 117.]*

*[Section A8.586-7 continues on page 117.]*



of such person under such law and shall be in satisfaction and discharge of the obligation of the city and county to pay such benefits. (Amended November 1998)

#### **A8.586-8 DEATH BENEFIT**

If a member of the police department shall die, before retirement from causes other than an injury received in, or illness caused by the performance of duty, or regardless of cause if no allowance shall be payable under Section 8.586-4 or 8.586-5 preceding, a death benefit shall be paid to his or her estate or designated beneficiary, the amount of which and the conditions for the payment of which shall be determined in the manner prescribed by the board of supervisors for the death benefit of other members of the retirement system. Upon the death of a member after retirement and regardless of the cause of death, a death benefit shall be paid to his or her estate or designated beneficiary the amount of which and the conditions for the payment of which shall be determined in the manner prescribed by the board of supervisors for the death benefit of other members of the retirement system. (Amended November 1998)

#### **A8.586-9 REFUNDS AND REDEPOSITS**

Should any member of the police department cease to be employed as such a member, through any cause other than death or retirement or transfer to another office or department, all of his or her contributions, with interest credited thereon, shall be refunded to him or her subject to the conditions prescribed by the board of supervisors to govern similar terminations of employment of other members of the retirement system. If he or she shall again become a member of the department, he or she shall redeposit in the retirement fund the amount refunded to him or her. Should a member of the police department become an employee of any other office or department, his or her accumulated contribution account shall be adjusted by payments to or from him or her as the case may be to make the accumulated contributions credited to him or her at the time of change equal to the amount which would have been credited to him or her if he or she had been employed in said other office or department at the rate of compensation received by him or her in the police department and he or she shall receive credit for service for which said contributions were made,

according to the charter section under which his or her membership in the retirement system continues. (Amended November 1998)

#### **A8.586-10 COMPUTATION OF SERVICE**

The following time shall be included in the computation of the service to be credited to a member of the police department for the purposes of determining whether such member qualified for retirement and calculating benefits, excluding, however, any time, the contributions for which were withdrawn by said member upon termination of his or her service while he or she was a member under any other charter section, and not redeposited upon re-entry into service:

(a) Time during and for which said member is entitled to receive compensation because of services as a member of the police or fire department under Section 8.586 or 8.588, respectively.

(b) Time prior to November 2, 1976, during which said member was entitled to receive compensation while a member of the police or fire department under any other section of the charter, provided that accumulated contributions on account of such service previously refunded are redeposited with interest from the date of refund to the date of redeposit, at times and in the manner fixed by the retirement board; and solely for the purpose of determining qualification for retirement under Section 8.586-3 for disability not resulting from injury received in or illness caused by performance of duty, time during which said member serves and receives compensation because of services rendered in other offices and departments.

(c) Time during which said member is absent from a status included in Subsection (a) next preceding, by reason of service in the armed forces of the United States of America, or by reason of any other service included in Section 8.520 of the charter, during any war in which the United States was or shall be engaged or during other national emergency, and for which said member contributed or contributes to the retirement system or for which the city and county contributed or contributes on his or her account. (Amended November 1998)

#### **A8.586-11 SOURCES OF FUNDS**

All payments provided for members under Section 8.586 shall be made from funds derived from

the following sources, plus interest earned on said funds:

(a) There shall be deducted from each payment of compensation made to a member under Section 8.586 a sum equal to seven percent of such payment of compensation. The sum so deducted shall be paid forthwith to the retirement system. Said contribution shall be credited to the individual account of the member from whose salary it was deducted, and the total of said contributions, together with interest credited thereon in the same manner as is prescribed by the board of supervisors for crediting interest to contributions of other members of the retirement system, shall be applied to provide part of the retirement allowance granted to, or allowance granted on account of said member, or shall be paid to said member or his or her estate or beneficiary as provided in Sections 8.586-8, 8.586-9 and 8.586-10.

(b) The city and county shall contribute to the retirement system such amounts as may be necessary, when added to the contributions referred to in Subsection (a) of this Section 8.586-11, to provide the benefits payable to members under Section 8.586. Such contributions of the city and county to provide the portion of the benefits hereunder shall be made in annual installments, and the installment to be paid in any year shall be determined by the application of a percentage to the total compensation paid during said year to persons who are members under Section 8.586, said percentage to the ratio of the value on November 2, 1976, or at the later date of a periodical actuarial valuation and investigation into the experience under the system, of the benefits thereafter to be paid to or on account of members under Section 8.586 from contributions of the city and county, less the amount of such contributions plus accumulated interest thereon, then held by said system to provide said benefits on account of service rendered by respective members after said date, to the value on said respective dates of salaries thereafter payable to said members. Said values shall be determined by the actuary, who shall take into account the interest which shall be earned on said contributions, the compensation experience of members, and the probabilities of separation by all causes, of members from service before retirement and of death after retirement. Said percentage shall be changed only on the basis of said periodical actuarial valuation and

investigation into the experience under the system. Said actuarial valuation shall be made every even-numbered year and said investigation into the experience under the system shall be made every odd-numbered year.

(c) To promote the stability of the retirement system through a joint participation in the result of variations in the experience under mortality, investment and other contingencies, the contributions of both members and the city and county held by the system to provide benefits for members under Section 8.586, shall be a part of the fund in which all other assets of said system are included. (Amended November 1998)

#### **A8.586-12 RIGHT TO RETIRE**

Upon the completion of the years of service set forth in Section 8.586-2 as requisite to retirement, a member of the police department shall be entitled to retire at any time thereafter in accordance with the provisions of said Section 8.586-2, and, except as provided in the following paragraph, nothing shall deprive said member of said right.

Any member of the police department convicted of a crime involving moral turpitude committed in connection with his or her duties as a member of the police department shall, upon termination of his or her employment pursuant to the provisions of this charter, forfeit all rights to any benefits under the retirement system except refund of his or her accumulated contributions; provided, however, that if such member is qualified for service retirement by reason of service and age under the provisions of Section 8.586-2, he or she shall have the right to elect, without right of revocation and within 90 days of the termination of his or her employment, whether to withdraw all of his or her accumulated contributions or to receive as his or her sole benefit under the retirement system an annuity which shall be the actuarial equivalent of his or her accumulated contributions at the time of such termination of employment. (Amended November 1998)

#### **A8.586-13 LIMITATION ON EMPLOYMENT DURING RETIREMENT**

(a) Except as provided in Section 8.511 of this charter and in Subsection (b) of this section, no person retired as a member under Section 8.586 for service

or disability and entitled to receive a retirement allowance under the retirement system shall be employed in any capacity by the city and county, nor shall such person receive any payment for services rendered to the city and county after retirement.

(b) (1) Service as an election officer or juror, or in the preparation for, or giving testimony as an expert witness for or on behalf of the city and county before any court or legislative body shall be affected by the provisions of Subsection (a) of this section.

(2) The provisions of Subsection (a) shall not prevent such retired person from serving on any board or commission of the city and county and receiving the compensation for such office, provided said compensation does not exceed \$100 per month.

(3) If such retired person is elected or appointed to a position or office which subjects him or her to membership in the retirement system under Section 8.586, he or she shall re-enter membership under Section 8.586 and his or her retirement allowance shall be cancelled immediately upon his/her re-entry. The provisions of Subsection (a) of this section shall not prevent such person from receiving the compensation for such position or office. The rate of contributions of such member shall be the same as that for other members under Section 8.586. Such member's individual account shall be credited with an amount which is the actuarial equivalent of his or her annuity at the time of his or her re-entry, but the amount thereof shall not exceed the amount of his or her accumulated contributions at the time of his or her retirement. Such member shall also receive credit for his or her service as it was at the time of his or her retirement.

(c) Notwithstanding any provision of this charter to the contrary, should any person retired for disability engage in a gainful occupation prior to attaining the age of 55 years, the retirement board shall reduce that part of his or her monthly retirement allowance which is provided by contributions of the city and county to an amount which, when added to the amount of the compensation earnable, at the time he or she engages in the gainful occupation, by such person if he or she held the position which he or she held at the time of his or her retirement, or, if that position has been abolished, the compensation earnable by the member

if he or she held the position from which he or she was retired immediately prior to its abolishment. (Amended November 1998)

#### **A8.586-14 CONFLICTING CHARTER PROVISIONS**

Any section or part of any section in this charter, insofar as it should conflict with the provisions of Sections 8.586 through 8.586-13 or with any part thereof, shall be superseded by the contents of said sections. In the event that any word, phrase, clause or section of said sections shall be adjudged unconstitutional, the remainder thereof shall remain in full force and effect. (Amended November 1998)

#### **A8.586-15 VESTING**

Notwithstanding any provisions of this charter to the contrary, should any member of the police department who is a member of the Retirement System under Charter Section 8.586 with five years of credited service, cease to be so employed, through any cause other than death or retirement, he or she shall have the right to elect, without right of revocation and within 90 days after termination of said service, to allow his or her accumulated contributions including interest to remain in the retirement fund and to receive a retirement benefit, calculated at termination, defined as that proportion of the normal service retirement benefit that his or her accrued service credit bears to 25 years, payable beginning at age 50. (Amended November 1998)

#### **A8.587 RETIREMENT—MISCELLANEOUS OFFICERS AND EMPLOYEES ON AND AFTER NOVEMBER 7, 2000**

Miscellaneous officers and employees on November 7, 2000 who were members of the retirement system under Section A8.584, miscellaneous officers and employees under Section A8.584 whose accumulated contributions were in the retirement fund on November 7, 2000 and who were not retired on that date, and miscellaneous officers and employees who become members of the retirement system on and after November 7, 2000 shall be members of the retirement system subject to the provisions of Sections A8.587 through A8.587-13, in addition to such other



applicable provisions including, but not limited to, A8.500 of this charter; provided that persons who become members under the Public Employees' Retirement System of the State of California or members of the State Teachers' Retirement System of the State of California shall not be members of the San Francisco City and County Employees' Retirement System and provided, further, that the retirement system shall be applied to persons employed on a part-time or temporary basis only as the board of supervisors shall determine by ordinance enacted by three-fourths vote of all members of the board. (Added November 2000)

### **A8.587-1 DEFINITIONS**

The following words and phrases as used in this section, unless a different meaning is plainly required by the context, shall have the following meaning:

"Retirement allowance," or "allowance," shall mean equal monthly payments, beginning to accrue upon the date of retirement, and continuing for life unless a different term of payment is definitely provided by the context.

"Compensation," as distinguished from benefits under the workers' compensation laws of the State of California shall mean all remuneration whether in cash or by other allowances made by the city and county, for service qualifying for credit under this section, but excluding remuneration for overtime and such other forms of compensation excluded by the board of supervisors pursuant to Section A8.500 of the charter.

"Compensation earnable" shall mean the compensation as determined by the retirement board, which would have been earned by the member had he or she worked, throughout the period under consideration, the average number of days ordinarily worked by persons in the same grade or class of positions as the positions held by him or her during such period and at the rate of pay attached to such positions, it being assumed that during any absence, he or she was in the position held by him or her at the beginning of the absence, and that prior to entering city service, he or she was in the position first held by him or her in city service.

"Benefit" shall include "allowance," "retirement allowance," and "death benefit."

"Average final compensation" shall mean the average monthly compensation earned by a member during any one year of credited service in the retirement system in which his or her average final compensation is the highest.

For the purposes of the retirement system and of this section, Section A8.587 and Sections A8.587-2 through A8.587-13, the terms "miscellaneous officer or employee," or "member," shall mean any officer or employee employed on November 7, 2000 who was a member of the retirement system under Section A8.584, any member of the retirement system under Section A8.584 whose accumulated contributions were in the retirement fund on November 7, 2000 and who was not retired on that date, and any officer or employee employed on or after November 7, 2000 who is not a member of the police or fire departments as defined in the charter for the purposes of the retirement system. Said terms shall not include those persons who become members under the Public Employees' Retirement System or members of the State Teachers' Retirement System.

"Retirement system" or "system" shall mean San Francisco City and County Employees' Retirement System as created in Section A8.500 of the charter.

"Retirement board" shall mean "retirement board" as created in Section 12.100 of the charter.

"Charter" shall mean the charter of the City and County of San Francisco.

Words used in the masculine gender shall include the feminine and neuter genders, and singular numbers shall include the plural and the plural the singular.

"Interest" shall mean interest at the rate adopted by the retirement board. (Added November 2000)

### **A8.587-2 SERVICE RETIREMENT**

Any member who completes at least 20 years of service in the aggregate credited in the retirement system and attains the age of 50 years, or at least 10 years of service in the aggregate credited in the retirement system, and attains the age of 60 years, said service to be computed under Section A8.587-7 may retire for service at his or her option. Members may retire under this section or under the provisions of A8.587-6, on the first day of the month next following the attainment by them of the age of 65



years. A member retired after reaching the age of 60 years shall receive a service retirement allowance at the rate of 2 percent of said average final compensation for each year of service. The service retirement allowance of any member retiring prior to attaining the age of 60 years, and after rendering 20 years or more of such service, computed under Section A8.587-7, and having attained the age of 50 years, shall be an allowance equal to the percentage of said average final compensation set forth opposite his or her age at retirement, taken to the preceding completed quarter year, for each year of service, computed under Section A8.587-7:

Age at Retirement	Percent for Each Year of Credited Service
50	1.000
50 1/4	1.0250
50 1/2	1.0500
50 3/4	1.0750
51	1.1000
51 1/4	1.1250
51 1/2	1.1500
51 3/4	1.1750
52	1.2000
52 1/4	1.2250
52 1/2	1.2500
52 3/4	1.2750
53	1.3000
53 1/4	1.3250
53 1/2	1.3500
53 3/4	1.3750
54	1.4000
54 1/4	1.4250
54 1/2	1.4500
54 3/4	1.4750
55	1.5000
55 1/4	1.5250
55 1/2	1.5500
55 3/4	1.5750
56	1.6000
56 1/4	1.6250
56 1/2	1.6500
56 3/4	1.6750
57	1.7000
57 1/4	1.7250

Age at Retirement	Percent for Each Year of Credited Service
57 1/2	1.7500
57 3/4	1.7750
58	1.8000
58 1/4	1.8250
58 1/2	1.8500
58 3/4	1.8750
59	1.9000
59 1/4	1.9250
59 1/2	1.9500
59 3/4	1.9750
60	2.0000

In no event shall a member's retirement allowance exceed seventy-five percent of his or her average final compensation.

Before the first payment of a retirement allowance is made, a member, retired under this section or Section A8.587-3, may elect to receive the actuarial equivalent of his or her allowance, partly in an allowance to be received by him or her throughout his or her life, and partly in other benefits payable after his or her death to another person or persons, provided that such election shall be subject to all the conditions prescribed by the board of supervisors to govern similar elections by other members of the retirement system, including the character and amount, of such other benefits. Notwithstanding the provisions of Section A8.514 of this charter, the portion of service retirement allowance provided by the city and county's contributions shall be not less than \$100 per month upon retirement after thirty years of service and after attaining the age of 60 years, and provided further that as to any member with 15 years or more of service at the retirement age of 65, the portion of the service retirement allowance provided by the city and county's contribution shall be such that the total retirement allowance shall not be less than \$100 per month. In the calculations under this section of the retirement allowance of a member having credit for service in a position in the evening schools and service in any other position, separate retirement allowances shall be calculated, in the manner prescribed for each class of service, the average final compensation in each case being that for the respective

class of service, provided that the aggregate retirement allowance shall be taken into account in applying the provisions of this section providing for a minimum retirement allowance. Part-time service and compensation shall be converted to full-time service and compensation in the manner prescribed by the board of supervisors, and when so converted shall be applied on full-time service and compensation in the calculation of retirement allowances. (Added November 2000)

### **A8.587-3 RETIREMENT FOR INCAPACITY**

Any member who becomes incapacitated for performance of duty because of disability determined by a qualified hearing officer to be of extended and uncertain duration, and who shall have completed at least 10 years of service credited in the retirement system in the aggregate, computed as provided in Section A8.587-7, shall be retired upon an allowance of 1.8% (one and eight-tenths percent) percent of the average final compensation of said member, as defined in Section A8.587-1 for each year of credited service, if such retirement allowance exceeds 40 percent of his or her average final compensation; otherwise 1.8% (one and eight-tenths percent) percent of his or her average final compensation multiplied by the number of years of city service which would be credited to him or her were such city service to continue until attainment by him or her of age 60, but such retirement allowance shall not exceed 40 percent of such average final compensation. In the calculation under this section of the retirement allowance of a member having credit for service in a position in the evening schools and service in any other position, separate retirement allowances shall be calculated, in the manner prescribed, for each class of service, the average final compensation in each case being that for the respective class of service; provided that the average final compensation upon which the minimum total retirement allowance is calculated in such case shall be based on the compensation earnable by the member in the classes of service rendered by him or her during the one year immediately preceding his or her retirement. Part-time service and compensation shall be converted to full-time service and compensation in the manner prescribed by the board of supervisors, and when so converted shall be applied as

full-time service and compensation in the calculation of retirement allowances. The question of retiring members under this section may be brought before the retirement board on said board's own motion, by the retirement board's executive director on its behalf, by said member, by his or her department head or by his or her guardian. If his or her disability shall cease, his or her retirement allowance shall cease, and he or she shall be restored to service in the position or classification he or she occupied at the time of his or her retirement. (Added November 2000)

### **A8.587-4 NO ADJUSTMENT FOR COMPENSATION PAYMENTS**

No modification of benefits provided in this section shall be made because of any amounts payable to or on account of any member under workers' compensation laws of the State of California. (Added November 2000)

### **A8.587-5 DEATH BENEFIT**

If a member shall die, before retirement:

(a) If no benefit is payable under subsection (b) of this section:

(1) Regardless of cause, a death benefit shall be paid to the member's estate or designated beneficiary consisting of the compensation earnable by the member during the six months immediately preceding death, plus the member's contributions and interest credited thereon.

(2) If a member sustains a traumatic bodily injury through external and violent means in the course and scope of employment and death results within 180 days of such injury, an additional insurance benefit of 12 months of compensation earnable shall be paid to the member's estate or designated beneficiary.

(b) If, at the date of his or her death, he or she was qualified for service retirement by reason of service and age under the provisions of Section A8.587-2, and he or she has designated as beneficiary his or her surviving spouse, who was married to him or her for at least one full year immediately prior to the date of his or her death, one-half of the retirement allowance to which the member would have been entitled if he or she had retired for service on the date of his or her death shall be paid to such surviving spouse who was his or her designated beneficiary at

the date of his or her death, until such spouse's death or remarriage, or if there be no surviving spouse, to the unmarried child or children of such member under the age of 18 years, collectively, until every such child dies, marries or attains the age of 18 years, provided that no child shall receive any allowance after marrying or attaining the age of 18 years. If, at the death of such surviving spouse, who was receiving an allowance under this Subsection (b), there be one or more unmarried children of such member under the age of 18 years, such allowance shall continue to such child or children, collectively, until every such child dies, marries or attains the age of 18 years, provided that no child shall receive any allowance after marrying or attaining the age of 18 years. If the total of the payments of allowance made pursuant to this Subsection (b) is less than the benefit which was otherwise payable under Subsection (a) of this section, the amount of said benefit payable under Subsection (a) less an amount equal to the total of the payments of allowance made pursuant to this Subsection (b) shall be paid in a lump sum as follows:

(1) If the person last entitled to said allowance is the remarried surviving spouse of such member, to such spouse.

(2) Otherwise, to the surviving children of the member, share and share alike, or if there are no such children, to the estate of the person last entitled to said allowance.

The surviving spouse may elect, on a form provided by the retirement system and filed in the office of the retirement system before the first payment of the allowance provided herein, to receive the benefit provided in Subsection (a) of this section in lieu of the allowance which otherwise would be payable under the provisions of this subdivision. If a surviving spouse, who was entitled to make the election herein provided, shall die before or after making such election but before receiving any payment pursuant to such election, then the legally appointed guardian of the unmarried children of the member under the age of 18 years may make the election herein provided before any benefit has been paid under this section, for and on behalf of such children if in his or her judgment it appears to be in their interest and advantage, and the election so made shall be binding and conclusive upon all parties in interest.

If any person other than such surviving spouse shall have and be paid a community property interest in any portion of any benefit provided under this section, any allowance payable under this Subsection (b) shall be reduced by the actuarial equivalent, at the date of the member's death, of the amount of benefits paid to such other person.

Upon the death of a member after retirement and regardless of the cause of death, a death benefit shall be paid to his or her estate or designated beneficiary in the manner and subject to the conditions prescribed by the board of supervisors for the payment of a similar death benefit upon the death of other retired members.

Upon the death of a member after retirement, an allowance, in addition to the death benefit provided in the immediately preceding paragraph, shall be paid to his or her surviving spouse, until such surviving spouse's death or remarriage, equal to one-half of his or her retirement allowance as it was prior to optional modification and prior to reduction as provided in Subsection (a) of Section A8.514 of this charter, but exclusive of the part of such allowance which was provided by additional contributions. No allowance, however, shall be paid under this paragraph to a surviving spouse unless such surviving spouse was married to said member at least one year prior to his or her retirement. If such retired person leaves no such surviving spouse, or if such surviving spouse should die or remarry before every child of such deceased retired person attains the age of 18 years, the allowance which such surviving spouse would have received had he or she lived and not remarried shall be paid to retired person's child or children under said age, collectively, to continue until every such child dies or attains said age, provided that no child shall receive any allowance after marrying or attaining the age of 18 years. (Added November 2000)

#### **A8.587-6 BENEFITS UPON TERMINATION OF MEMBERSHIP**

Should any miscellaneous member cease to be employed as such a member, through any cause other than death or retirement, all of his or her contributions, with interest credited thereon, shall be refunded to him or her subject to the conditions prescribed by the board of supervisors to cover similar terminations



of employment and re-employment with and without redeposit of withdrawn accumulated contributions of other members of the retirement system, provided that, if such member is entitled to be credited with at least five years of service, he or she shall have the right to elect, without right of revocation and within 90 days after said termination of service, or if the termination was by lay-off, 90 days after the retirement board determines the termination to be permanent, whether to allow his or her accumulated contributions to remain in the retirement fund and to receive benefits only as provided in this paragraph. Failure to make such election shall be deemed an irrevocable election to withdraw his or her accumulated contributions. At or after 50 years of age, he or she shall be entitled to receive a retirement allowance which shall be the actuarial equivalent of his or her accumulated contributions and an equal amount of the contributions of the city and county, plus 1.667% (one and two-thirds percent) percent of his or her average final compensation for each year of service credited to him or her as rendered prior to his or her first membership in the retirement system. Upon the death of such member prior to retirement, his or her contributions with interest credited thereon shall be paid to his or her estate or designated beneficiary. (Added November 2000)

#### **A8.587-7 COMPUTATION OF SERVICE**

The following time and service shall be included in the computation of the service to be credited to a member for the purpose of determining whether such member qualifies for retirement and calculating benefits:

(a) For miscellaneous officers and employees on November 7, 2000 who were members of the retirement system under Section A8.584, time during which said officers and employees were members under Section A8.584.

(b) Time during which said member is a member of the retirement system under Section A8.587 and during and for which said member is entitled to receive compensation because of services as a miscellaneous officer or employee.

(c) Service in the fire and police departments which is not credited as service as a member under Section A8.587 shall count under this section upon

transfer of a member of either of such departments to employment entitling him or her to membership in the retirement system under Section A8.587, provided that the accumulated contributions standing to the credit of such member shall be adjusted by refund to the member or by payment by the member to bring the account at the time of such transfer to the amount which would have been credited to it had the member been a miscellaneous member throughout the period of his or her service in either of such departments at the compensation he or she received in such departments.

(d) Prior service, during which said member was entitled to receive compensation while a miscellaneous member under any other section of the charter, provided that accumulated contributions on account of such service previously refunded are redeposited with interest from the date of refund to the date of redeposit, at times and in the manner fixed by the retirement board.

(e) Prior service determined and credited as prescribed by the board of supervisors.

(f) The board of supervisors, by ordinance enacted by a three-fourths vote of its members, may provide for the crediting as service, rendered as an employee of the federal government and service rendered as an employee of the State of California or any public entity or public agency in the State of California. Said ordinance shall provide that all contributions required as the result of the crediting of such service shall be made by the member and that no contributions therefor shall be required of the city and county.

(g) Time during which said member is absent from a status included in Subsections (a), (b) or (c) and for which such member is entitled to receive credit as service for the city and county by virtue of contributions made in accordance with the provisions of Section A8.520 or Section A8.521 of the charter. (Added November 2000)

#### **A8.587-8 SOURCES OF FUNDS**

All payments provided for members under Section A8.587 shall be made from funds derived from the following sources, plus interest earned on said funds:

(a) There shall be deducted from each payment of compensation made to a member under Section



A8.587 a sum equal to seven percent of such payment of compensation. The sum so deducted shall be paid forthwith to the retirement system. Said contribution shall be credited to the individual account of the member from whose salary it was deducted, and the total of said contributions, together with interest credited thereon in the same manner as is prescribed by the board of supervisors for crediting interest to contributions of other members of the retirement system, shall be applied to provide part of the retirement allowance granted to, or allowance granted on account of said member under Section A8.587, or shall be paid to said member or his or her estate or beneficiary as provided in Sections A8.587-5 and A8.587-6. A member's individual account under Section A8.587 shall include all monies credited to the member's account under Section A8.584.

(b) The city and county shall contribute to the retirement system such amounts as may be necessary, when added to the contributions referred to in Subsection (a) of this Section A8.587-8, to provide the benefits payable to members under Section A8.587. Such contributions of the city and county to provide the portion of the benefits hereunder shall be made in annual installments, and the installment to be paid in any year shall be determined by the application of a percentage to the total compensation paid during said year to persons who are members under Section A8.587, said percentage to be the ratio of the value as of the latest periodical actuarial valuation of the benefits thereafter to be paid to or on account of members under Section A8.587 from contributions of the city and county, less the amount of such contributions, plus accumulated interest thereon, then held by said system to provide said benefits on account of service rendered by respective members after said date, to the value at said respective dates of salaries thereafter payable to said members. Said values shall be determined by the actuary, who shall take into account the interest which shall be earned on said contributions, the compensation experience of members, and the probabilities of separation by all causes, of members from service before retirement and of death after retirement. Said percentage shall be changed only on the basis of said periodical actuarial valuation and investigation into the experience under the system.

Said actuarial valuations and investigations shall be made at least every two years.

(c) To promote the stability of the retirement system through a joint participation in the result of variations in the experience under mortality, investment and other contingencies, the contributions of both members and the city and county held by the system to provide benefits for members under Section A8.587 shall be a part of the fund in which all other assets of said system are included. (Added November 2000)

#### **A8.587-9 RIGHT TO RETIRE**

Upon the completion of the years of service set forth in Section A8.587-2 as requisite to retirement, a member shall be entitled to retire at any time thereafter in accordance with the provisions of said Section A8.587-2, and, except as provided in the following paragraph, nothing shall deprive said member of said right.

Any member convicted of a crime involving moral turpitude committed in connection with his or her duties as an officer or employee of the city and county shall, upon his or her removal from office or employment, pursuant to the provisions of this charter, forfeit all rights to any benefits under the retirement system except refund of his or her accumulated contributions; provided, however, that if such member is qualified for service retirement by reason of service and age under the provisions of Section A8.587-2, he or she shall have the right to elect, without right of revocation and within 90 days after his or her removal from office or employment to receive as his or her sole benefit under the retirement system an annuity which shall be the actuarial equivalent of his or her accumulated contributions at the time of such removal from office or employment. (Added November 2000)

#### **A8.587-10 LIMITATION ON EMPLOYMENT DURING RETIREMENT**

(a) Except as provided in Section A8.511 of this charter and Subsection (b) of this section, no person retired as a member under Section A8.587 for service or disability and entitled to receive a retirement allowance under the retirement system shall be employed in any capacity by the city and county, nor shall such

person receive any payment for services rendered to the city and county after retirement.

(b) (1) Service as an election officer or juror, or in the preparation for or giving testimony as an expert witness for or on behalf of the city and county before any court or legislative body shall not be affected by the provisions of Subsection (a) of this section.

(2) The provisions of Subsection (a) shall not prevent such retired person from serving on any board or commission of the city and county and receiving the compensation for such office, provided said service does not exceed 120 working days or 960 hours per fiscal year.

(3) If such retired person is elected or appointed to a position or office which subjects him or her to membership in the retirement system under Section A8.587, he or she shall re-enter membership under Section A8.587 and his or her retirement allowance shall be cancelled immediately upon such re-entry. The provisions of Subsection (a) of this section shall not prevent such person from receiving the compensation for such position or office. The rate of contribution of such member shall be the same as that for other members under Section A8.587. Such member's individual account shall be credited with an amount which is the actuarial equivalent of his or her annuity at the time of his or her re-entry, but the amount thereof shall not exceed the amount of his or her accumulated contributions at the time of his or her retirement. Such member shall also receive credit for his or her service as it was at the time of his or her retirement.

(4) The provisions of Subsection (a) shall not prevent such retired persons from employment which requires coverage under the Public Employees' Retirement System or the State Teachers' Retirement System. (Added November 2000)

#### **A8.587-11 ADJUSTMENT OF ALLOWANCES**

Every retirement or death allowance payable to or on account of any member under Section A8.587 shall be adjusted in accordance with the provisions of Subsection (b) of Section A8.526 of this charter. (Added November 2000)

#### **A8.587-12 CONFLICTING CHARTER PROVISIONS**

Any section or part of any section in this charter, insofar as it should conflict with the provisions of Sections A8.587 through A8.587-13 or with any part thereof, shall be superseded by the contents of said sections. In the event that any word, phrase, clause or section of sections shall be adjudged unconstitutional, the remainder thereof shall remain in full force and effect. (Added November 2000)

#### **A8.587-13 APPLICATION OF PLAN**

The provisions of Section A8.587 and Section A8.587-1 through A8.587-13 shall not apply to any members of the Retirement System under section A8.584 who retired or died before November 7, 2000 or to their continuants. (Added November 2000)

#### **A8.588 MEMBERS OF THE FIRE DEPARTMENT AFTER NOVEMBER 1, 1976**

Those persons who become members of the fire department, as defined in Section 8.588-1, on or after November 2, 1976, shall be members of the system subject to the provisions of Sections 8.588, 8.588-1, 8.588-2, 8.588-3, 8.588-4, 8.588-5, 8.588-6, 8.588-7, 8.588-8, 8.588-9, 8.588-10, 8.588-11, 8.588-12, 8.588-13, and 8.588-14 (which shall apply only to members under Section 8.588) in addition to the provisions contained in Sections 3.670 to 3.672, both inclusive, and Sections 8.500, 8.510, 8.520 and 8.526 of this charter, notwithstanding the provisions of any other section of this charter, and shall not be subject to any of the provisions of Sections 8.568 or 8.585 of this charter. (Amended November 1996)

#### **A8.588-1 DEFINITIONS**

The following words and phrases as used in this section, Section 8.588 and Sections 8.588-2 through 8.588-14, unless a different meaning is plainly required by the context, shall have the following meanings:

"Retirement allowance," "death allowance" or "allowance," shall mean equal monthly payments, beginning to accrue upon the date of retirement, or upon the day following the date of death, as the case

may be, and continuing for life unless a different term of payment is definitely provided by the context.

“Compensation,” as distinguished from benefits under the Workers’ Compensation Insurance and Safety Act of the State of California, shall mean the remuneration payable in cash, by the city and county, without deduction except for absence from duty, for time during which the individual receiving such remuneration is a member of the fire department, but excluding remuneration paid for overtime. Subject to requirement that it be payable in cash and that overtime be excluded, “compensation” for pension purposes may be defined in a collective bargaining agreement.

“Compensation earnable” shall mean the compensation which would have been earned had the member received compensation without interruption throughout the period under consideration and at the rates of remuneration attached at that time to the ranks or positions held by him or her during such period, it being assumed that during any absence, he or she was in the rank or position held by him or her at the beginning of the absence, and that prior to becoming a member of the fire department, he or she was in the rank or position first held by him or her in such department.

“Benefit” shall include “allowance,” “retirement allowance,” “death allowance” and “death benefit.”

“Final compensation” shall mean the average monthly compensation earnable by a member during any one year of credited service in which his or her average compensation is the highest.

For the purpose of Sections 8.588 through 8.588-14, the terms “member of the fire department,” “member of the department,” or “member” shall mean any officer or employee of the fire department employed after November 1, 1976 who was or shall be subject to the charter provisions governing entrance requirements of members of the uniformed force of said department and said terms shall further mean persons employed after November 1, 1976 at an age not greater than the maximum age then prescribed for entrance into employment in said uniformed force, to perform duties now performed under the titles of pilot of fireboats, or marine engineer of fireboats; provided, however, that said terms shall not include

any person who has not satisfactorily completed such course of training as may be required by the fire department prior to assignment to active duty with said department.

“Retirement system” or “system” shall mean San Francisco City and County Employees’ Retirement System as created in Section 8.500 of the charter.

“Retirement board” shall mean “retirement board” as created in Section 3.670 of the charter.

“Charter” shall mean the charter of the City and County of San Francisco.

Words used in the masculine gender shall include the feminine and neuter gender, and singular numbers shall include the plural and the plural the singular.

“Interest” shall mean interest at the rate adopted by the retirement board. (Amended November 1996)

#### **A8.588-2 SERVICE RETIREMENT**

Any member of the fire department who completes at least five (5) years of service in the aggregate and attains the age of fifty (50) years, said service to be computed under Section 8.588-10, may retire for service at his or her option. A member retired after meeting the service and age requirements in the sentence next preceding, shall receive a retirement allowance equal to the larger of (a) two percent of final compensation for each of the first twenty-five (25) years of service, then three percent of final compensation for each year of service rendered in excess of twenty-five (25) years or (b) the percent of final compensation (as defined in Section 8.588-1) set forth opposite his or her age at retirement, taken to the preceding completed quarter year, for each year of service, as computed under Section 8.588-10:

<b>Age at Retirement</b>	<b>Percent for Each Year of Credited Service</b>
50	2.000
50.25	2.035
50.5	2.070
50.75	2.105
51	2.140
51.25	2.175
51.5	2.210
51.75	2.245



Age at Retirement	Percent for Each Year of Credited Service
52	2.280
52.25	2.315
52.5	2.350
52.75	2.385
53	2.420
53.25	2.455
53.5	2.490
53.75	2.525
54	2.560
54.25	2.595
54.5	2.630
54.75	2.665
55	2.700

In no event, however, shall such a retirement allowance exceed seventy-five (75) percent of a member's final compensation. (Amended November 1996)

#### **A8.588-3 RETIREMENT FOR INCAPACITY**

Any member of the fire department who becomes incapacitated for the performance of his or her duty by reason of any bodily injury received in, or illness caused by the performance of his or her duty, shall be retired. If he or she is not qualified for service retirement, he or she shall receive a retirement allowance in an amount which shall be equal to the same percentage of the final compensation of said member, as defined in Section 8.585-1, as his percentage of disability is determined to be. The percentage of disability shall be as determined by the Workers' Compensation Appeals Board of the State of California upon referral from the retirement board for that purpose; provided that the retirement board may, by five affirmative votes, adjust the percentage of disability as determined by said appeals board; and provided, further, that such retirement allowance shall be in an amount not less than 50 percent nor more

than 90 percent of the final compensation of said member, as defined in Section 8.585-1. Said allowance shall be paid to him or her until the date upon which said member would have completed at least twenty-five (25) years of service in the aggregate and attained the age of fifty (50) years had he or she lived and rendered service without interruption in the rank held by him or her at retirement, and after said date the allowance payable shall be equal to the retirement allowance said member would have received if retired for service on said date based on the final compensation, as defined in Section 8.588-1, he or she would have received immediately prior to said date, had he or she lived and rendered service as assumed, but such allowance shall not be less than fifty percent of such final compensation.

If, at the time of retirement because of disability, he or she is qualified as to age and service for retirement under Section 8.588-2, he or she shall receive an allowance equal to the retirement allowance which he or she would receive if retired under Section 8.588-2, but not less than 50 percent of said final compensation. Any member of the fire department who becomes incapacitated for performance of his or her duty by reason of a cause not included under the provisions of the immediately preceding sentences, and who shall have completed at least 10 years of service in the aggregate, computed as provided in Section 8.588-10, shall be retired upon an allowance of 1-1/2 percent of the final compensation of said member as defined in Section 8.588-1 for each year of service, provided that said allowance shall not be less than 33-1/3 percent of said final compensation. The question of retiring a member under this section may be brought before the retirement board on said board's own motion, by recommendation of the fire commission or by said member or his or her guardian. If his or her disability shall cease, his or her retirement allowance shall cease and he or she shall be restored to the service in the rank he occupied at the time of his or her retirement. (Amended November 1996)

*[The next page is number 121.]*



**A8.588-4 DEATH ALLOWANCE**

If a member of the fire department shall die before or after retirement by reason of an injury received in, or illness caused by the performance of his or her duty, a death allowance, in lieu of any allowance, payable under any other section of the charter or by ordinance, on account of death resulting from injury received in or illness caused by the performance of duty, shall be paid, beginning on the date next following the date of death, to his or her surviving spouse throughout his or her life or until his or her remarriage. If the member, at the time of death, was qualified for service retirement, but he or she had not retired, the allowance payable shall be equal to the retirement allowance which the member would have received if he or she had been retired for service on the date of death, but such allowance shall not be less than 50 percent of the final compensation earnable by said member immediately preceding death. If death occurs prior to qualification for service retirement, the allowance payable shall be equal to the compensation of said member at the date of death, until the date upon which said member would have completed at least twenty-five (25) years of service in the aggregate and attained the age of fifty (50) years, had he or she lived and rendered service without interruption in the rank held by him or her at death, and after said date the allowance payable shall be equal to the retirement allowance said member would have received if retired for service on said date, based on the final compensation he or she would have received prior to said date, had he or she lived and rendered service as assumed, but such allowance shall not be less than 50 percent of such final compensation. If he or she had retired prior to death, for service or for disability resulting from injury received in, or illness caused by the performance of duty, the allowance payable shall be equal to the retirement allowance of the member, except that if he or she was a member under Section 8.588 and retirement was for such disability, and if death occurred prior to qualification for the service retirement allowance, the allowance continued shall be adjusted upon the date at which said member would have completed at least twenty-five (25) years of service in the aggregate and attained the age of fifty (50) years, in the same manner as it would have been adjusted had the member not died.

If there be no surviving spouse entitled to an allowance hereunder, or if he or she dies or remarries before every child of such deceased member attains the age of 18 years, then the allowance which the surviving spouse would have received had he or she lived and not remarried shall be paid to his or her child or children under said age, collectively, until every such child dies or attains said age, provided that no child shall receive any allowance after marrying or attaining the age of 18 years. Should said member leave no surviving spouse and no children under the age of 18 years, but leave a parent or parents dependent upon him or her for support, the parents so dependent shall collectively receive a monthly allowance equal to that which a surviving spouse otherwise would have received, during such dependency. No allowance, however, shall be paid under this section to a surviving spouse following the death of a member unless he or she was married to the member prior to the date of the injury or onset of the illness which results in death.

The amendments to this Section A8.588-4, approved by the electorate on November 2, 2004 shall apply to any work-related death that occurs on or after November 2, 2004, and to any qualified survivor who, on November 2, 2004, is receiving a continuation allowance under this section due to the work-related death of a member on or after January 1, 1989. Any increase in the continuation allowance payable to such a qualified survivor by virtue of the amendments to this section approved by the electorate on November 2, 2004 shall be prospective only, beginning November 2, 2004. (Amended November 1996; November 2004)

**A8.588-5 PAYMENT TO SURVIVING DEPENDENTS**

Upon the death of a member of the fire department resulting from any cause other than an injury received in, or illness caused by performance of duty,

(a) if the death occurred after qualification for service retirement under Section 8.588-2, or after retirement service or because of disability which result from any cause other than an injury received in, or illness caused by performance of duty one-half of the retirement allowance to which the member would have been entitled if he or she had retired for service

at the date of death or one-half of the retirement allowance as it was at his death, as the case may be, shall be continued throughout his or her life or until remarriage, to his or her surviving wife, or

(b) if his or her death occurred after the completion of at least 25 years of service in the aggregate but prior to the attainment of the age of 50 years, one-half of the retirement allowance to which he or she would have been entitled under Section 8.588-2 if he or she had attained the age of 50 years on the date of his or her death shall be continued throughout life or until remarriage, to his surviving wife, or

(c) his or her death occurred after retirement for disability by reason of injury received in or illness caused by performance of duty, three-fourths of his or her retirement allowance as it was at his or her death shall be continued throughout life or until remarriage, to his surviving wife, except that, if death occurred prior to qualification for service retirement allowance, the allowance continued shall be adjusted upon the date on which said member would have completed at least twenty-five (25) years of service in the aggregate and attained the age of fifty (50) years, in the same manner as it would have been adjusted had the member not died, or

(d) if his or her death occurred after completion of at least 10 years of service in the aggregate, computed as provided in Section 8.588-10, an

*[Section A8.588-5 continues on page 123.]*

allowance in an amount equal to the retirement allowance to which the member would have been entitled pursuant to Section 8.588-3 if he or she had retired on the date of death because of incapacity for performance of duty shall be paid throughout life or until remarriage, to his surviving wife. If there be no surviving wife entitled to an allowance hereunder, or if she dies or remarries before every child of such deceased member attains the age of 18 years, then the allowance which the surviving wife would have received had she lived and not remarried shall be paid to his or her child or children under said age collectively, to continue until every such child dies or attains said age, provided that no child shall receive any allowance after marrying or attaining the age of 18 years. Should said member leave no surviving wife and no children, under age of 18 years, but leave a child or children, regardless of age, dependent upon him or her for support because partially or totally disabled and unable to earn a livelihood or a parent or parents dependent upon him or her for support, the child or children and the parents so dependent shall collectively receive a monthly allowance equal to that which a surviving wife otherwise would have received, during such dependency. No allowance, however shall be paid under this section to a surviving wife unless she was married to the member prior to the date of the injury or onset of the illness which results in death if he or she had not retired, or unless she was married to the member at least one year prior to his or her retirement if he or she had retired.

As used in this section and Section 8.588-4 "surviving wife" shall mean and include a surviving spouse, and shall also mean and include a spouse who has remarried since the death of the member, but whose remarriage has been terminated by death, divorce or annulment within five years after the date of such remarriage and who has not thereafter again remarried.

The surviving wife, in the event of death of the member after qualification for, but before service retirement, may elect before the first payment of the allowance, to receive the benefit provided in Section 8.588-8, in lieu of the allowance which otherwise would be continued to her under this section. If there be no surviving wife, the guardian of the eligible child or children may make such election, and if there be no such children, the dependent parent or parents may make such election. "Qualified for service

retirement," "qualification for service retirement" or "qualified as to age and service for retirement," as used in this section and other sections to which persons who are members under Section 8.588 are subject, shall mean completion of 25 years of service and attainment of age 50, said service to be computed under Section 8.588-10. (Amended November 1996)

#### **A8.588-6 ADJUSTMENT OF ALLOWANCES**

Every retirement or death allowance payable to or on account of any member under Section 8.588 shall be adjusted in accordance with the provisions of Subsection (b) of Section 8.526 of this charter.

#### **A8.588-7 ADJUSTMENT FOR COMPENSATION PAYMENTS**

That portion of any allowance payable because of the death or retirement of any member of the fire department which is provided by contributions of the city and county, shall be reduced in the manner fixed by the board of supervisors, by the amount of any benefits other than medical benefits, payable by the city and county to or on account of such person, under any workers' compensation law or any other general law and because of the injury or illness resulting in said death or retirement. Such portion which is paid because of death or retirement which resulted from injury received in, or illness caused by performance of duty, shall be considered as in lieu of all benefits, other than medical benefits, payable to or on account of such person under such law and shall be in satisfaction and discharge of the obligation of the city and county to pay such benefits.

#### **A8.588-8 DEATH BENEFIT**

If a member of the fire department shall die, before retirement from causes other than an injury received in, or illness caused by the performance of duty, or regardless of cause if no allowance shall be payable under Section 8.588-4 or 8.588-5 preceding, a death benefit shall be paid to his or her estate or designated beneficiary, the amount of which and the conditions for the payment of which shall be determined in the manner prescribed by the board of supervisors for the death benefit of other members of the retirement system. Upon the death of a member after retirement and regardless of the cause of death, a death benefit shall be paid to his or her estate or designated beneficiary the amount of which and the

conditions for the payment of which shall be determined in the manner prescribed by the board of supervisors for the death benefit of other members of the retirement system. (Amended November 1996)

#### **A8.588-9 REFUNDS AND REDEPOSITS**

Should any member of the fire department cease to be employed as such a member, through any cause other than death or retirement or transfer to another office or department, all of his or her contributions, with interest credited thereon, shall be refunded to him or her subject to the conditions prescribed by the board of supervisors to govern similar terminations of employment of other members of the retirement system. If he or she shall again become a member of the department, he or she shall redeposit in the retirement fund the amount refunded to him or her. Should a member of the fire department become an employee of any other office or department, his or her accumulated contribution account shall be adjusted by payments to or from him or her as the case may be to make the accumulated contributions credited to him or her at the time of change equal to the amount which would have been credited to him or her if he or she had been employed in said other office or department at the rate of compensation received by him or her in the fire department and he or she shall receive credit for service for which said contributions were made, according to the charter section under which his or her membership in the retirement system continues.

#### **A8.588-10 COMPUTATION OF SERVICE**

The following time shall be included in the computation of the service to be credited to a member of the fire department for the purposes of determining whether such member qualified for retirement and calculating benefits, excluding, however, any time, the contributions for which were withdrawn by said member upon termination of his or her service while he or she was a member under any other charter section, and not redeposited upon re-entry into service:

(a) Time during and for which said member is entitled to receive compensation because of services as a member of the police or fire department under Section 8.586 or 8.588, respectively.

(b) Time prior to November 2, 1976, during which said member was entitled to receive compensation while a member of the police or fire

department under any other section of the charter, provided that accumulated contributions on account of such service previously refunded are redeposited with interest from the date of refund to the date of redeposit, at times and in the manner fixed by the retirement board; and solely for the purpose of determining qualification for retirement under Section 8.588-3 for disability not resulting from injury received in or illness caused by performance of duty, time during which said member serves and receives compensation because of services rendered in other offices and departments.

(c) Time during which said member earned compensation as a paramedic with the department of public health, provided that the accumulated contributions on account of such service are transferred to his or her 8.588 account or, if previously refunded, are redeposited with interest from the date of refund to the date of redeposit, at times and in the manner fixed by the retirement board. The retirement board shall require that a waiver be executed by said member so that any paramedic service covered by Section 8.588 is not also covered by other pension provisions in this charter.

(d) Time during which said member is absent from a status included in Subsection (a) next preceding, by reason of service in the armed forces of the United States of America, or by reason of any other service included in Section 8.520 of the charter, during any war in which the United States was or shall be engaged or during other national emergency, and for which said member contributed or contributes to the retirement system or for which the city and county contributed or contributes on his or her account. (Amended November 1998)

#### **A8.588-11 SOURCES OF FUNDS**

All payments provided for members under Section 8.588 shall be made from funds derived from the following sources, plus interest earned on said funds:

(a) There shall be deducted from each payment of compensation made to a member under Section 8.588 a sum equal to seven percent of such payment of compensation. The sum so deducted shall be paid forthwith to the retirement system. Said contribution shall be credited to the individual account of the member from whose salary it was deducted, and the total of said contributions, together with interest



credited thereon in the same manner as is prescribed by the board of supervisors for crediting interest to contributions of other members of the retirement system, shall be applied to provide part of the retirement allowance granted to, or allowance granted on account of said member, or shall be paid to said member or his or her estate or beneficiary as provided in Sections 8.588-8, 8.588-9 and 8.588-10.

(b) The city and county shall contribute to the retirement system such amounts as may be necessary, when added to the contributions referred to in Subsection (a) of this Section 8.588-11, to provide the benefits payable to members under Section 8.588. Such contributions of the city and county to provide the portion of the benefits hereunder shall be made in annual installments, and the installment to be paid in any year shall be determined by the application of a percentage to the total compensation paid during said year to persons who are members under Section 8.588, said percentage to the ratio of the value on November 2, 1976, or at the later date of a periodical actuarial valuation and investigation into the experience under the system, of the benefits thereafter to be paid to or on account of members under Section 8.588 from contributions of the city and county, less the amount of such contributions plus accumulated interest thereon, then held by said system to provide said benefits on account of service rendered by respective members after said date, to the value on said respective dates of salaries thereafter payable to said members. Said values shall be determined by the actuary, who shall take into account the interest which shall be earned on said contributions, the compensation experience of members, and the probabilities of separation by all causes, of members from service before retirement and of death after retirement. Said percentage shall be changed only on the basis of said periodical actuarial valuation and investigation into the experience under the system. Said actuarial valuation shall be made every even-numbered year and said investigation into the experience under the system shall be made every odd-numbered year.

(c) To promote the stability of the retirement system through a joint participation in the result of variations in the experience under mortality, investment and other contingencies, the contributions of both members and the city and county held by the system to provide benefits for members under Section

8.588, shall be a part of the fund in which all other assets of said system are included. (Amended November 1996)

#### **A8.588-12 RIGHT TO RETIRE**

Upon the completion of the years of service set forth in Section 8.588-2 as requisite to retirement, a member of the fire department shall be entitled to retire at any time thereafter in accordance with the provisions of said Section 8.588-2, and, except as provided in the following paragraph, nothing shall deprive said member of said right.

Any member of the fire department convicted of a crime involving moral turpitude committed in connection with his or her duties as a member of the fire department shall, upon termination of his or her employment pursuant to the provisions of this charter, forfeit all rights to any benefits under the retirement system except refund of his or her accumulated contributions; provided, however, that if such member is qualified for service retirement by reason of service and age under the provisions of Section 8.588-2, he or she shall have the right to elect, without right of revocation and within 90 days of the termination of his or her employment, whether to withdraw all of his or her accumulated contributions or to receive as his or her sole benefit under the retirement system an annuity which shall be the actuarial equivalent of his or her accumulated contributions at the time of such termination of employment. (Amended November 1996)

#### **A8.588-13 LIMITATION ON EMPLOYMENT DURING RETIREMENT**

(a) Except as provided in Section 8.511 of this charter and in Subsection (b) of this section, no person retired as a member under Section 8.588 for service or disability and entitled to receive a retirement allowance under the retirement system shall be employed in any capacity by the city and county, nor shall such person receive any payment for services rendered to the city and county after retirement.

(b)(1) Service as an election officer or juror, or in the preparation for, or giving testimony as an expert witness for or on behalf of the city and county before any court or legislative body shall be affected by the provisions of Subsection (a) of this section.

(2) The provisions of Subsection (a) shall not prevent such retired person from serving on any board

or commission of the city and county and receiving the compensation for such office, provided said compensation does not exceed \$100 per month.

(3) If such retired person is elected or appointed to a position or office which subjects him or her to membership in the retirement system under Section 8.588, he or she shall re-enter membership under Section 8.588 and his or her retirement allowance shall be canceled immediately upon his or her re-entry. The provisions of Subsection (a) of this section shall not prevent such person from receiving the compensation for such position or office. The rate of contributions of such member shall be the same as that for other members under Section 8.588. Such member's individual account shall be credited with an amount which is the actuarial equivalent of his or her annuity at the time of his or her re-entry, but the amount thereof shall not exceed the amount of his or her accumulated contributions at the time of his or her retirement. Such member shall also receive credit for his or her service as it was at the time of his or her retirement.

(c) Notwithstanding any provision of this charter to the contrary, should any person retired for disability engage in a gainful occupation prior to attaining the age of 55 years, the retirement board shall reduce that part of his or her monthly retirement allowance which is provided by contributions of the city and county to an amount which, when added to the amount of the compensation earnable, at the time he or she engages in the gainful occupation, by such person if he or she held the position which he or she held at the time of his or her retirement, or, if that position has been abolished, the compensation earnable by the member if he or she held the position from which he or she was retired immediately prior to its abolishment. (Amended November 1996)

#### **A8.588-14 CONFLICTING CHARTER PROVISIONS**

Any section or part of any section in this charter, insofar as it should conflict with the provisions of Sections 8.588 through 8.588-13 or with any part thereof, shall be superseded by the contents of said sections. In the event that any word, phrase, clause or section of said sections shall be adjudged unconstitutional, the remainder thereof shall remain in full force and effect. (Amended November 1996)

#### **A8.588-15 VESTING**

Notwithstanding any provisions of this charter to the contrary, should any member of the fire department who is a member of the Retirement System under Charter Section 8.588 with five years of credited service, cease to be so employed, through any cause other than death or retirement, he or she shall have the right to elect, without right of revocation and within 90 days after termination of said service, to allow his or her accumulated contributions including interest to remain in the retirement fund and to receive a retirement benefit, calculated at termination, defined as that proportion of the normal service retirement benefit that his or her accrued service credit bears to 25 years, payable beginning at age 50. (Amended November 1996)

#### **A8.590-1 DECLARATION OF POLICY**

It is hereby declared to be the policy of the City and County of San Francisco that strikes by firefighters, police officers and deputy sheriffs are not legally permissible, and that a method should be adopted for peacefully and equitably resolving disputes. It is the further purpose and policy of the City and County of San Francisco that in the event the procedures herein adopted are invoked by the City and County of San Francisco or by a recognized employee organization representing firefighters, police officers or deputy sheriffs, that they shall supersede and displace all other formulas, procedures and provisions relating to wages, hours, benefits and other terms and conditions of employment found in this Charter, in the ordinances and resolutions of the City and County of San Francisco, or in the rules, regulations or actions of boards or commissions of the City and County of San Francisco. (Amended March 2004)

#### **A8.590-2 EMPLOYEES COVERED**

These sections A8.590-1 through A8.590-7, inclusive, shall apply to the several ranks of the fire department and police department as provided for in Sections 4.128 and 4.127 of this Charter, respectively, and to all of the classifications of deputy sheriffs, jointly referred to in these sections as "firefighters," "police officers" and "deputy sheriffs." (Amended March 2004)

**A8.590-3 PROHIBITION AGAINST STRIKES**

If any firefighter, police officer or deputy sheriff employed by the City and County of San Francisco engages in a strike as defined by Section A8.346(a) of this charter against the City and County of San Francisco, said employee shall be dismissed from his or her employment pursuant to Charter Section A8.345 and A8.346. (Amended March 2004)

**A8.590-4 OBLIGATION TO NEGOTIATE IN GOOD FAITH**

Notwithstanding any other provisions of this Charter, or of the ordinances, rules or regulations of the City and County of San Francisco and its departments, boards and commissions, the City and County of San Francisco, through its duly authorized representatives, and recognized employee organizations representing classifications of firefighters, police officers and deputy sheriffs shall have the mutual obligation to negotiate in good faith on all matters within the scope of representation as defined by Government Code Sections 3500, et seq., relating to the wages, hours, benefits and terms and conditions of City and County employment, including the establishment of procedures for the resolution of grievances concerning the interpretation or application of any negotiated agreement. Unless and until agreement is reached through negotiations between authorized representatives of the City and County of San Francisco and the recognized employee organization for the classifications of fire department, police department and sheriff department, or a determination is made through the impartial arbitration procedure hereinafter provided, no existing benefit, term or condition of employment for said fire department, police department or sheriff department shall be altered, eliminated or changed. Agreements reached by the duly authorized representatives for the City and County of San Francisco, its departments, boards and commissions and the recognized employee organizations pursuant to this Section shall be binding on the City and County of San Francisco, and on its departments, boards, commissions, officers and employees once adopted by the board of supervisors. Said agreements shall supersede any and all other conflicting procedures, provisions and formulas contained in this Charter relating to wages, hours, benefits or terms and conditions of employment. (Amended March 2004)

**A8.590-5 IMPASSE RESOLUTION PROCEDURES**

(a) Subject to section A8.590-5(g), disputes or controversies pertaining to wages, hours, benefits or terms and conditions of employment which remain unresolved after good faith negotiations between the City and County of San Francisco, its departments, boards and commissions and a recognized employee organization representing firefighters, police officers or deputy sheriffs shall be submitted to a three-member board of arbitrators upon the declaration of an impasse either by the authorized representative of the City and County of San Francisco or by the recognized employee organization involved in the dispute.

(b) Representatives designated by the City and County of San Francisco and representatives of the recognized employee organization involved in the dispute shall each select and appoint one arbitrator to the board of arbitrators within three (3) days after either party has notified the other, in writing, that it desires to proceed to arbitration. The third member of the arbitration board shall be selected by agreement between the City and County of San Francisco and the employee organization, and shall serve as the neutral arbitrator and Chairperson of the Board. In the event that the City and County of San Francisco and the recognized employee organization involved in the dispute cannot agree upon the selection of the neutral arbitrator within ten (10) days from the date that either party has notified the other that it has declared an impasse, either party may then request the State Mediation and Conciliation Service of the State of California Department of Industrial Relations to provide a list of seven (7) persons who are qualified and experienced as labor arbitrators. If the City and County and the employee organization cannot agree within three (3) days after receipt of such list on one of seven (7) persons to act as the neutral arbitrator, they shall alternately strike names from the list of nominees until one name remains and that person shall then become the neutral arbitrator and chairperson of the arbitration board.

(c) Any arbitration proceeding convened pursuant to this article shall be conducted in conformance with, subject to, and governed by Title 9 of Part 3 of the California Code of Civil Procedure. The arbitration board shall hold public hearings, receive evidence from the parties and cause



a transcript of the proceedings to be prepared. The arbitration board, in the exercise of its discretion, may meet privately with the parties, mediate or mediate the issues in dispute. The arbitration board may also adopt such other procedures that are designed to encourage an agreement between the parties, expedite the arbitration hearing process, or reduce the costs of the arbitration process.

(d) In the event no agreement is reached prior to the conclusion of the arbitration hearings, the arbitration board shall direct each of the parties to submit, within such time limit as the arbitration board may establish, a last offer of settlement on each of the remaining issues in dispute. The arbitration board shall decide each issue by majority vote by selecting whichever last offer of settlement on that issue it finds most nearly conforms to those factors traditionally taken into consideration in the determination of wages, hours, benefits and terms and conditions of public and private employment, including, but not limited to: changes in the average consumer price index for goods and services; the wages, hours, benefits and terms and conditions of employment of employees performing similar services; the wages, hours, benefits and terms and conditions of other employees in the City and County of San Francisco; and the formulas provided for in this Charter for the establishment and maintenance of wages, hours, benefits and terms and conditions of employment. The impartial arbitration board shall also consider the financial condition of the City and County of San Francisco and its ability to meet the costs of the decision of the arbitration board.

(e) After reaching a decision, the arbitration board shall mail or otherwise deliver a true copy of its decision to the parties. The decision of the arbitration board shall not be publicly disclosed and shall not be binding until ten (10) days after it is delivered to the parties. During that ten (10) day period the parties shall meet privately, attempt to resolve their differences, and by mutual agreement amend or modify the decision of the arbitration board. At the conclusion of the ten (10) day period, which may be extended by mutual agreement between the parties, the decision of the arbitration board, as it may be modified or amended by the parties, shall be publicly disclosed. Except as limited by Section A8.590-7, the arbitration decision, as it may be modified or amended by the parties, shall supersede any and all other

relevant formulas, procedures and provisions of this Charter relating to wages, hours, benefits and terms and conditions of employment; and it shall be final and binding on the parties to the dispute, including the City and County of San Francisco, its commissions, departments, officers and employees. No other actions or procedural steps to confirm or approve the decision of the arbitration board shall be permitted or required; provided, however, that the City and County of San Francisco, its designated officers, employees and representatives and the recognized employee organization involved in the dispute shall take whatever action that is necessary to carry out and effectuate the decision of the arbitration board.

(f) The expenses of any arbitration proceedings convened pursuant to these Charter sections, including the fee for the services of the chairperson of the arbitration board, the costs of preparation of the transcript of the proceedings and other costs related to the conduct of the proceedings, as determined by the arbitration board, shall be borne equally by the parties. All other expenses which the parties may incur are to be borne by the party incurring such expenses.

(g) The impasse resolution procedures set forth in Section A8.590-5 shall not apply to:

1. any dispute or controversy concerning the San Francisco Police Department's crowd control policies;

2. any procedures or practices relating to the processing and disposition of complaints handled by the Office of Citizens' Complaints; or matters relating to disciplinary procedures that apply to disciplinary actions involving members of the San Francisco police department and fire department covered by these sections; or matters covered by Charter section A8.343; and

3. any rule, policy, procedure, order or practice which relates or pertains to the purpose, goals or requirements of a consent decree, or which is necessary to ensure compliance with federal, state or local anti-discrimination laws, ordinances or regulations.

In the event the City acts on a matter it has determined relates to or pertains to a consent decree, or in the event the City acts to ensure compliance with federal, state, or local anti-discrimination laws, ordinances or regulations, and the affected employee organization disputes said determination, that determination or action shall not be subject to arbitration.



**A8.590-6 RETIREE BENEFIT ADJUSTMENTS**

No agreement reached by the parties and no decision of the arbitration board shall reduce the vested retirement benefits of retirees or employees of the fire department, police department or of the sheriff department. Retirement and death allowances shall continue to be set and adjusted pursuant to Chapter Five of this Article, except that the amount to which said allowances are set and adjusted for uniformed employees of the police department and fire department shall not be less than the amount said allowances would be if the salaries of the uniformed forces in the police and fire departments continued to be set pursuant to Charter Section 8.405. Any agreement or decision of the arbitration board altering vested retirement benefits shall be subject to the written approval of the individual beneficiaries thereof. (Amended March 2004)

**A8.590-7 PRESERVATION OF TAX BENEFITS**

(a) Sections A8.590-1 through A8.590-7, in their entirety, shall be subject to and limited by charter section A8.500 and any ordinances enacted pursuant thereto. Sections A8.590-1 through A8.590-7 shall be effective only to the extent that benefits authorized by or authorized pursuant to those sections do not have an adverse consequence on the tax treatment of benefits provided to any employee of the city and county.

(b) Any agreement reached by the parties or any decision of the arbitration board which authorizes a modification of any aspect of the retirement system or of any aspect of the provision for or delivery of retirement benefits shall not become effective until the following occur:

(1) The retirement board, acting in its fiduciary capacity, forwards to the board of supervisors certification that implementation of the modifications presents no risk to the tax-qualified status of the retirement system. Such certification shall be based upon the advice of the general manager, the actuary of the retirement system, and any outside consultants that they may in their discretion retain; and,

(2) After having received the certification referred to in the previous paragraph and after having made its own independent finding based on clear and convincing evidence that implementation of the modifications presents no risk to the tax-qualified

status of the retirement system and will not increase the taxes of city and county employees, the board of supervisors, by a three-quarters vote, enacts an ordinance making the modifications effective.

(c) Costs of any outside consultants retained by the city and county pursuant to this section shall be borne equally by the city and county and by the bargaining units concerned. (Amended March 2004)

**A8.595 MEMBERS OF THE POLICE DEPARTMENT ON JANUARY 1, 2003 WHO ARE MEMBERS OF THE RETIREMENT SYSTEM UNDER CHARTER SECTION A8.559**

Members of the police department on January 1, 2003 who are members of the retirement system under Section A8.559 may elect to be members of the retirement system under Section A8.595 instead of Section A8.559. Any such election must be exercised in writing, on a form furnished by the retirement system, and filed at the office of said system not later than the close of business on December 31, 2002.

Those persons who elect to be members under Section A8.595 as provided in the preceding paragraph, shall be members of the system subject to provisions of Sections A8.595 through Section A8.595-14 (which shall apply only to members under Section A8.595) in addition to the provisions contained in Sections 12.100 to 12.103 and Sections A8.500, A8.510 and A8.520 of this charter, notwithstanding the provisions of any other section of this charter, and shall not be subject to any of the provisions of Section A8.559 of this charter.

The provisions of section A8.595 shall not apply to any member of the retirement system under section A8.559 who separated from service, retired or died before January 1, 2003, or to his or her continuant; provided, however, that the provisions of section A8.595-2 shall apply to the adjustment required in Sections A8.559-3, A8.559-4 and A8.559-5 for a retired member or his or her surviving spouse or continuant when the retired member would not have completed at least twenty-five (25) years of service in the aggregate and attained the age of fifty (50) years until after January 1, 2003. (Added November 2002)

**A8.595-1 DEFINITIONS**

The following words and phrases as used in this section A8.595 and Sections A8.595-2 through A8.595-14, unless a different meaning is plainly required by the context, shall have the following meanings:

"Retirement allowance," "death allowance" or "allowance," shall mean equal monthly payments, beginning to accrue upon the date of retirement, or upon the day following the date of death, as the case may be, and continuing for life unless a different term of payment is definitely provided by the context.

"Compensation," as distinguished from benefits under the Workers' Compensation Insurance and Safety Act of the State of California, shall mean the remuneration payable in cash, by the City and County, without deduction except for absence from duty, for time during which the individual receiving such remuneration is a member of the police department, but excluding remuneration paid for overtime.

For retirement purposes, any increase in compensation attached to a rank which is based solely upon the possession of a POST certificate, compared to the equivalent rank without a POST certificate, shall be subject to the following limitations:

(a) for possession of the intermediate POST certificate, no more than 4% shall be included in compensation,

(b) for possession of the advanced POST certificate, no more than an additional 2% over the maximum provided in subsection (a), above, shall be included in compensation,

These limits shall apply to any pay increments which are solely attributable to the possession of a POST certificate, including but not limited to premiums or special ranks which may be established in the future and which are solely attributable to the possession of a POST certificate.

"Compensation earnable" shall mean the compensation which would have been earned had the member received compensation without interruption throughout the period under consideration and at the rates of remuneration attached at that time to the ranks or positions held by him or her during such period, it being assumed that during any absence, he or she was in the rank or position held by him or her at the beginning of the absence, and that prior to becoming

a member of the police department, he or she was in the rank or position first held by him or her in such department.

"Benefit" shall include "allowance," "retirement allowance," "death allowance" and "death benefit."

"Final compensation" shall mean the monthly compensation earnable by a member at the time of his or her retirement, or death before retirement, as the case may be, at the rate of remuneration attached at that time to the rank or position which said member held, provided that said member has held said rank or position for at least one year immediately prior to said retirement or death; and provided, further, that if said member has not held said rank or position for at least one year immediately prior to said retirement or death, "final compensation," as to such member, shall mean the monthly compensation earnable by such member in the rank or position next lower to the rank or position which he or she held at the time of retirement or death at the rate of remuneration attached at the time of said retirement or death to said next lower rank or position; provided, however, that in the case of a member's death before retirement as the result of a violent traumatic injury received in the performance of his or her duty, "final compensation," as to such member shall mean the monthly compensation earnable by such member at the rate of remuneration attached on the date he or she receives such injury to the rank or position held by such member on that date.

For purposes of calculation of final compensation, any increase in pay solely attributable to possession of a POST certificate shall be included only if the member possesses the qualifying POST certificate for a period of not less than four (4) years prior to his or her retirement date; provided, however, that should a member possess the qualifying POST certificate for a period of time less than four (4) years prior to retirement, final compensation shall be calculated based upon the monthly compensation in the next lower rank not requiring possession of the qualifying POST certificate.

For the purpose of Sections A8.595 through A8.595-14, the terms "member of the police department," "member of the department," or "member" shall mean any officer or employee of the police department, who was a member of the police department on January 1, 2003 and a member of the

retirement system under Section A8.559 and who elected to be a member of Section A8.595 as provided in Section A8.595.

Any police service performed by such members of the police department outside the limits of the City and County and under orders of a superior officer of any such member, shall be considered as City and County service, and any disability or death incurred therein shall be covered under the provisions of the retirement system.

“Retirement system” or “system” shall mean San Francisco City and County Employees' Retirement System as created in Section A8.500 of the charter.

“Retirement board” shall mean “retirement board” as created in Section 12.100 of the charter.

“Charter” shall mean the charter of the City and County of San Francisco.

Words used in the masculine gender shall include the feminine and neuter gender, words used in the feminine gender shall include the masculine and neuter gender, and singular numbers shall include the plural and the plural the singular.

“Interest” shall mean interest at the rate adopted by the retirement board. (Added November 2002)

#### **A8.595-2 SERVICE RETIREMENT**

Any member of the police department who completes at least twenty-five (25) years of service in the aggregate and attains the age of fifty (50) years, said service to be computed under Section A8.595-10, may retire for service at his or her option. A member retired after meeting the service and age requirements in the preceding sentence, shall receive a retirement allowance equal to the percent of the final compensation of said member, as defined in Section A8.595-1, set forth below opposite his or her age at retirement, taken to the preceding quarter year, for each year of service, as computed under Section A8.595-10:

<i>Retirement Age</i>	<i>Percent for Each Year of Credited Service</i>
50	2.400
50.25	2.430
50.5	2.460
50.75	2.490
51	2.520
51.25	2.550
51.5	2.580
51.75	2.610
52	2.640
52.25	2.670
52.5	2.700
52.75	2.730
53	2.760
53.25	2.790
53.5	2.820
53.75	2.850
54	2.880
54.25	2.910
54.5	2.940
54.75	2.970
55 +	3.000

In no event, however, shall such a retirement allowance exceed ninety (90) percent of a member's final compensation.



If, at the date of retirement for service, or retirement for disability resulting from an injury received in the performance of duty, said member has no spouse, children or dependent parents, who would qualify for the continuance of the allowance after the death of said member, or with respect to the portion of the allowance which would not be continued regardless of dependents, or upon retirement for disability resulting from other causes, with respect to all of the allowance and regardless of dependents at retirement, a member retired under this section, or Section A8.595-3, may elect before the first payment of the retirement allowance is made, to receive the actuarial equivalent of his or her allowance or the portion which would not be continued regardless of dependents, as the case may be, partly in a lesser allowance to be received by him or her throughout his or her life, and partly in other benefits payable after his or her death to another person or persons, provided that such election shall be subject to all the conditions prescribed by the board of supervisors to govern similar election by other members of the retirement system, including the character and amount of such other benefits. (Added November 2002)

#### **A8.595-3 RETIREMENT FOR INCAPACITY**

Any member of the police department who becomes incapacitated for the performance of his or her duty by reason of any bodily injury received in, or illness caused by the performance of his or her duty, shall be retired. If he or she is not qualified for service retirement, he or she shall receive a retirement allowance in an amount which shall be equal to the same percentage of the final compensation of said member, as defined in Section A8.595-1, as his or her percentage of disability is determined to be. The percentage of disability shall be as determined by the Workers' Compensation Appeals Board of the State of California upon referral from the retirement board for that purpose; provided that the retirement board may, by five affirmative votes, adjust the percentage of disability as determined by said appeals board; and provided, further, that such retirement allowance shall be in an amount not less than 50 percent nor more than 90 percent of the final compensation of said member, as defined in Section A8.595-1. Said allowance shall be paid to said member until the date upon which said member would have qualified for

service retirement had he or she lived and rendered service without interruption in the rank held by the member at retirement, and after said date the allowance payable shall be equal to the retirement allowance said member would have received if retired for service on said date based on the final compensation, as defined in Section A8.595-1, he or she would have received immediately prior to said date, had he or she lived and rendered service as assumed, but such allowance shall not be less than 55 percent of such final compensation.

If, at the time of retirement because of disability, he or she is qualified as to age and service for retirement under Section A8.595-2, he or she shall receive an allowance equal to the retirement allowance which he or she would receive if retired under Section A8.595-2, but not less than 55 percent of said final compensation. Any member of the police department who becomes incapacitated for performance of his or her duty, by reason of a cause not included under the provisions of the immediately preceding sentences, and who shall have completed at least 10 years of service in the aggregate, computed as provided in Section A8.595-10, shall be retired upon an allowance of one and one-half percent of the final compensation of said member as defined in Section A8.595-1 for each year of service, provided that said allowance shall not be less than 33-1/3 percent of said final compensation; provided, however, that if such member has completed at least 25 years of service in the aggregate, computed as provided in Section A8.595-10, but has not yet attained the age of 50 years, he or she shall receive an allowance equal to the retirement allowance he or she would have received if he or she had attained the age of 50 years and retired under Section A8.595-2 as of the date of retirement for such incapacity. The question of retiring a member under this section may be brought before the retirement board on said board's own motion, by recommendation of the police commission, or by said member or his or her guardian. If his or her disability shall cease, his or her retirement allowance shall cease, and he or she shall be restored to the service in the rank he or she occupied at the time of his or her retirement. (Added November 2002)



**A8.595-4 DEATH ALLOWANCE**

If a member of the police department shall die before or after retirement by reason of an injury received in, or illness caused by the performance of his or her duty, a death allowance, in lieu of any allowance payable under any other section of the charter or by ordinance, on account of death resulting from injury received in or illness caused by the performance of duty, shall be paid, beginning on the date next following the date of death, to his or her surviving spouse throughout his or her life or until his or her remarriage. If the member, at the time of death, was qualified for service retirement, but had not retired, the allowance payable shall be equal to the retirement allowance which the member would have received if he or she had been retired for service on the day of death, but such allowance shall not be less than 55 percent of the final compensation earnable by said member immediately preceding death. If death occurs prior to qualification for service retirement, the allowance payable shall be equal to the final compensation of said member at the date of death, until the date upon which said member would have qualified for service retirement, had he or she lived and rendered service without interruption in the rank held by the member at death, and after said date the allowance payable shall be equal to the retirement allowance said member would have received if retired for service on said date, based on the final compensation he or she would have received immediately prior to said date, had he or she lived and rendered service as assumed, but such allowance shall not be less than 55 percent of such monthly final compensation. If he or she had retired prior to death, for service or for disability resulting from injury received in, or illness caused by the performance of duty, the allowance payable shall be equal to the retirement allowance of the member, except that if he or she was a member under Section 5.595 and retirement was for such disability, and if death occurred prior to qualification for the service retirement allowance, the allowance continued shall be reduced upon the date at which said member would have qualified for service retirement, in the same manner as it would have been reduced had the member not died. If there is no surviving spouse entitled to an allowance hereunder, or if he or she dies or remarries before every child of such deceased member attains the age of 18 years, then the allowance

which the surviving spouse would have received had he or she lived and not remarried shall be paid to his or her child or children under said age, collectively, to continue until every such child dies or attains said age, provided that no child shall receive any allowance after marrying or attaining the age of 18 years. Should said member leave no surviving spouse and no children under the age of 18 years, but leave a child or children, regardless of age, dependent upon him or her for support because partially or totally disabled and unable to earn a livelihood or a parent or parents dependent upon him or her for support, the child or children and the parents so dependent shall collectively receive a monthly allowance equal to that which a surviving spouse otherwise would have received, during such dependency. No allowance, however, shall be paid under this section to a surviving spouse following the death of a member unless he or she was married to the member prior to the date of the injury or onset of the illness which results in death. (Added November 2002)

**A8.595-5 PAYMENT TO SURVIVING DEPENDENTS**

Upon the death of a member of the police department resulting from any cause, other than an injury received in, or illness caused by performance of duty;

(a) if his or her death occurred after qualification for service retirement, under Section A8.595-2 or after retirement for service or because of disability which resulted from any cause other than an injury received in, or illness caused by performance of duty, three-fourths of his or her retirement allowance to which the member would have been entitled if he or she had retired for service at the time of death or three-fourths of the retirement allowance as it was at his or her death, as the case may be, shall be continued throughout life or until remarriage to his or her surviving spouse; or

(b) if his or her death occurred after the completion of at least 25 years of service in the aggregate but prior to the attainment of the age of 50 years, three-fourths of the retirement allowance to which he or she would have been entitled under Section A8.595-2 if he or she had attained the age of 50 years on the date of his or her death shall be continued throughout life or until remarriage to his or her surviving spouse; or

(c) if his or her death occurred after retirement for disability by reason of injury received in, or illness caused by performance of duty, his or her retirement allowance as it was at his or her death shall be continued throughout life or until remarriage, to his or her surviving spouse, except that, if death occurred prior to qualification for service retirement allowance, the allowance continued shall be adjusted upon the date of which said member would have qualified for service retirement, in the same manner as it would have been adjusted had the member not died; or

(d) if his or her death occurred after completion of at least 10 years of service in the aggregate, computed as provided in Section A8.595-10, an allowance in an amount equal to the retirement allowance to which the member would have been entitled pursuant to Section A8.595-3 if he or she had retired on the date of death because of incapacity for performance of duty resulting from a cause other than bodily injury received in, or illness caused by performance of duty shall be paid throughout life or until remarriage to his or her surviving spouse.

If there is no surviving spouse entitled to an allowance hereunder, or if he or she dies or remarries before every child of such deceased member attains the age of 18 years, then the allowance which the surviving spouse would have received had he or she lived and not remarried shall be paid to his or her child or children under said age, collectively, to continue until every such child dies or attains said age, provided that no child shall receive any allowance after marrying or attaining the age of 18 years. Should said member leave no surviving spouse and no children under age of 18 years, but leave a child or children, regardless of age, dependent upon him or her for support because partially or totally disabled and unable to earn a livelihood or a parent or parents dependent upon him or her for support, the child or children and the parents so dependent shall collectively receive a monthly allowance equal to that which a surviving spouse otherwise would have received, during such dependency. No allowance, however, shall be paid under this section to a surviving spouse unless he or she was married to the member prior to the date of the injury or onset of the illness which results in death if he or she had not retired, or unless he or she was married to the member at least one year prior to his or her death if he or she had retired.

As used in this section and Section A8.595-4, "surviving spouse" shall mean and include a surviving spouse, and shall also mean and include a spouse who has remarried since the death of the member, but whose remarriage has been terminated by death, divorce or annulment within five years after the date of such remarriage and who has not thereafter again remarried.

The surviving spouse, in the event of death of the member after qualification for but before service retirement, may elect before the first payment of the allowance, to receive the benefit provided in Section A8.595-A8, in lieu of the allowance which otherwise would be continued to him or her under this section. If there is no surviving spouse, the guardian of the eligible child or children may make such election, and if there are no such children, the dependent parent or parents may make such election. "Qualified for service retirement," "Qualification for service retirement" or "Qualified as to age and service for retirement," as used in this section and other sections to which persons who are members under Section A8.595 are subject, shall mean completion of 25 years of service and attainment of age 50, said service to be computed under Section A8.595-10. (Added November 2002)

#### **A8.595-6 ADJUSTMENT OF ALLOWANCES**

Every retirement or death allowance payable to or on account of any member under Section A8.595 shall be increased or decreased as of January 1, 2003, and thereafter on the effective date of any legislation fixing the rates of compensation for police officers under section A8.590-1 et seq. of this charter by an amount equal to 50 percent of any increase or decrease, respectively, in the rate of remuneration attached to the rank or position upon which such retirement or death allowance was based; provided, however, that no allowance shall be reduced below the amount being received by a member or his or her beneficiary on January 1, 2003, or on the date such member or beneficiary began to receive the allowance, whichever is later. (Added November 2002)

#### **A8.595-7 ADJUSTMENT FOR COMPENSATION PAYMENTS**

That portion of any allowance payable because of the death or retirement of any member of the police department which is provided by contributions of the

City and County, shall be reduced, by the amount of any benefits other than medical benefits, payable by the City and County to or on account of such person, under any workers' compensation law or any other general law and because of the injury or illness resulting in said death or retirement. Such portion which is paid because of death or retirement which resulted from injury received in or illness caused by performance of duty, shall be considered as in lieu of all benefits, other than medical benefits, payable to or on account of such person under such law and shall be in satisfaction and discharge of the obligation of the City and County to pay such benefits. (Added November 2002)

#### **A8.595-8 DEATH BENEFIT**

If a member of the police department shall die, before retirement from causes other than an injury received in or illness caused by the performance of duty, or regardless of cause, if no allowance shall be payable under Section 8.595-4 or 8.595-5 preceding, a death benefit shall be paid to his or her estate or designated beneficiary, the amount of which and the conditions for the payment of which shall be determined in the manner prescribed by the board of supervisors for the death benefit of other members of the retirement system. Upon the death of a member after retirement and regardless of the cause of death, a death benefit shall be paid to his or her estate or designated beneficiary the amount of which and the conditions for the payment of which shall be determined in the manner prescribed by the board of supervisors for the death benefit of other members of the retirement system. (Added November 2002)

#### **A8.595-9 REFUNDS AND REDEPOSITS**

Should any member of the police department cease to be employed as such a member, through any cause other than death or retirement or transfer to another office or department, all of his or her contributions, with interest credited thereon, shall be refunded to him or her subject to the conditions prescribed by the board of supervisors to govern similar terminations of employment of other members of the retirement system. If he or she shall again become a member of the department, he or she shall redeposit in the retirement fund, the amount refunded to him or her. Should a member of the police

department become an employee of any other office or department, his or her accumulated contribution account shall be adjusted by payments to or from him or her as the case may be to make the accumulated contributions credited to him or her at the time of change, equal to the amount which would have been credited to him or her if he or she had been employed in said other office or department at the rate of compensation received by him or her in the police department and he or she shall receive credit for service for which said contributions were made, according to the charter section under which his or her membership in the retirement system continues. (Added November 2002)

#### **A8.595-10 COMPUTATION OF SERVICE**

The following time shall be included in the computation of the service to be credited to a member of the police department for the purposes of determining whether such member qualified for retirement and calculating benefits, excluding, however, any time, the contributions for which were withdrawn by said member upon termination of his or her service while he or she was a member under any other charter section, and not redeposited upon reentry into service:

(a) Time during and for which said member is entitled to receive compensation because of services as a member of the fire or police department.

(b) Time during which said member served and received compensation as a jail matron in the office of the sheriff.

(c) Time during which said member is absent from a status included in Subsections (a) or (b) next preceding, by reason of service in the armed forces of the United States of America, or by reason of any other service included in Sections A8.520 and A8.521 of the charter, during any war in which the United States was or shall be engaged or during other national emergency, and for which said member contributed or contributes to the retirement system or for which the City and County contributed or contributes on his or her account. (Added November 2002)

#### **A8.595-11 SOURCES OF FUNDS**

All payments provided for members under Section A8.595 shall be made from funds derived from the following sources, plus interest earned on said funds:



(a) There shall be deducted from each payment of compensation made to a member under Section A8.595 a sum equal to seven percent of such payment of compensation. The sum so deducted shall be paid forthwith to the retirement system. Said contribution shall be credited to the individual account of the member from whose salary it was deducted, and the total of said contributions, together with interest credited thereon in the same manner as is prescribed by the board of supervisors for crediting interest to contributions of other members of the retirement system, shall be applied to provide part of the retirement allowance granted to, or allowance granted on account of said member, or shall be paid to said member or his or her estate or beneficiary as provided in Section A8.595-8, A8.595-9 and A8.595-10. A member's individual account under Section A8.595 shall include all monies previously credited to the member's account under Section A8.559 .

(b) The dependent contributions of each member under this section which shall be required of each member throughout his or her membership in addition to the normal contributions, and in the same manner as normal contributions, shall be such as, on the average for such member, will provide, assuming service without interruption under Section A8.595-2, and upon he or she first qualifying as to age and service for retirement under that section, one-third of the portion of his or her allowance, which is to be continued under Section A8.595-5 after his or her death and throughout the life of a surviving spouse whose age at said death is three years less than the age of said member. If, at the date of retirement for service or retirement for disability resulting from injury received in the performance of duty, said member has no spouse who would qualify for the continuance of the allowance to him or her after the death of said member, or upon retirement for disability resulting from other causes, regardless of his or her marital conditions, the dependent contributions with accumulated interest thereon, shall be paid to him or her forthwith. The dependent rate of contribution, however, shall not exceed the difference between seven percent and the member's normal rate of contribution, and said dependent rate may be taken as a flat percentage of the member's normal rate, regardless of the age of qualification for service retirement.

(c) The City and County shall contribute to the retirement system such amounts as may be necessary, when added to the contributions referred to in Subsection (a) of this Section A8.595-11, to provide the benefits payable to members under Section A8.595. Such contributions of the City and County to provide the portion of the benefits hereunder shall be made in annual installments, and the installment to be paid in any year shall be determined by the application of a percentage to the total compensation paid during said year to persons who are members under Section A8.595 in accordance with the provisions of Section A8.510.

(d) To promote the stability of the retirement system through a joint participation in the result of variations in the experience under mortality, investment and other contingencies, the contributions of both members and the City and County held by the system to provide benefits for members under Section A8.595, shall be a part of the fund in which all other assets of said system are included.

(e) Any year in which, based upon the retirement system's annual actuarial valuation, the employer contribution rate exceeds 0%, the employee organizations representing safety members shall jointly meet and confer with city representatives to implement a cost sharing arrangement between the city and employee organizations. Such arrangement will effect a material reduction of the cost impact of employer contributions on the city's general fund.

The dollar value of the cost sharing arrangement shall not exceed the total annual cost to the retirement system of improving the police and fire safety retirement plans to the 3% @ 55 benefit level or the total employer contribution required by the retirement system, whichever is lesser. Such cost sharing arrangement shall not require an employee contribution in excess of the limits set elsewhere in this charter.

The meet and confer process, including all impasse procedures under section A8.590-1 et seq., shall be concluded not later than April 1st except by mutual agreement of the parties. The cost sharing arrangement must be finalized to permit implementation effective July 1.

The retirement board's authority under charter section 12.100 and in section A8.510 concerning the annual setting of the rates of contribution are not



subject to the meet and confer process, including all impasse procedures under section A8.590-1 et seq. (Added November 2002)

#### **A8.595-12 RIGHT TO RETIRE**

Upon the completion of the years of service set forth in Section A8.595-2 as requisite to retirement, a member of the police department shall be entitled to retire at any time thereafter in accordance with the provisions of said Section A8.595-2, and nothing shall deprive said member of said right. (Added November 2002)

#### **A8.595-13 LIMITATION IN EMPLOYMENT DURING RETIREMENT**

Except as otherwise provided in Section A 8.511 of this charter, no person retired as a member under Section A 8.595 for service or disability and entitled to receive a retirement allowance under the retirement system shall serve in any elective or appointive position in the City and County service, including membership on boards and commissions, nor shall such person receive any payment for service rendered to the City and County after retirement, provided that service as an election officer or juror, or in the preparation for, or the giving of, testimony as an expert witness for or on behalf of the City and County of San Francisco before any court or legislative body shall not be affected by this section. (Added November 2002)

#### **A8.595-14 VESTING**

Notwithstanding any provisions of this charter to the contrary, should any member of the police department who is a member of the Retirement System under Charter Section A8.595 with five years of credited service, cease to be so employed, through any cause other than death or retirement, he or she shall have the right to elect, without right of revocation and within 90 days after termination of said service, to allow his or her accumulated contributions including interest to remain in the retirement fund and to receive a retirement allowance equal to the percent set forth in Section A8.595-2 opposite his or her age at retirement, for each year of service multiplied against the final compensation of said member, calculated at termination, payable beginning no earlier than age 50. The provisions of Section A8.595-14 shall not apply

to any members of the retirement system under Section A8.559 who terminated before January 1, 2003 or their continuants. No vesting retirement allowance under this section shall exceed ninety (90%) percent of the member's final compensation.

Any member of the police department convicted of a crime involving moral turpitude committed in connection with his or her duties as a member of the police department shall, upon termination of his or her employment pursuant to the provisions of this charter, forfeit all right to any benefits under this section except refund of his or her accumulated contributions.

Every retirement or death allowance payable to or on account of any member under Section A 8.595-14 shall be adjusted in accordance with the provisions of Section A 8.595-6 provided that if the member's accrued service credit is less than 25 years the Section A 8.595-6 adjustment will be multiplied by a fraction where the denominator is 25 and the numerator is equal to the member's accrued service credit at the date of termination. (Added November 2002)

#### **A8.596 MEMBERS OF THE FIRE DEPARTMENT ON JANUARY 1, 2003 WHO ARE MEMBERS OF THE RETIREMENT SYSTEM UNDER CHARTER SECTION A8.585**

Members of the fire department on January 1, 2003 who are members of the retirement system under Section A8.585 may elect to be members of the retirement system under Section A8.596 instead of Section A8.585. Any such election must be exercised in writing, on a form furnished by the retirement system, and filed at the office of said system not later than the close of business on December 31, 2002.

Those persons who elect to be members under Section A8.596 as provided in the preceding paragraph, shall be members of the system subject to provisions of Section A8.596 through Section A8.596-14 (which shall apply only to members under Section A8.596) in addition to the provisions contained in Sections 12.100 to 12.103 and Sections A8.500, A8.510 and A8.520 of this charter, notwithstanding the provisions of any other section of this charter, and shall not be subject to any of the provisions of Section A8.585 of this charter.

The provisions of section A8.596 shall not apply to any member of the retirement system under section

A8.585 who separated from service, retired or died before January 1, 2003, or to his or her continuant; provided, however, that the provisions of section A8.596-2 shall apply to the adjustment required in Sections A8.585-3, A8-585-4 and A8.585-5 for a retired member or his or her surviving spouse or continuant when the retired member would not have completed at least twenty-five (25) years of service in the aggregate and attained the age of fifty (50) years until after January 1, 2003. (Added November 2002)

### **A8.596-1 DEFINITIONS**

The following words and phrases as used in this section A8.596 and Sections A8.596-2 through A8.596-14, unless a different meaning is plainly required by the context, shall have the following meanings:

"Retirement allowance," "death allowance" or "allowance," shall mean equal monthly payments, beginning to accrue upon the date of retirement, or upon the day following the date of death, as the case may be, and continuing for life unless a different term of payment is definitely provided by the context.

"Compensation," as distinguished from benefits under the Workers' Compensation Insurance and Safety Act of the State of California, shall mean the remuneration payable in cash, by the City and County, without deduction except for absence from duty, for time during which the individual receiving such remuneration is a member of the fire department, but excluding remuneration paid for overtime.

"Compensation earnable" shall mean the compensation which would have been earned had the member received compensation without interruption throughout the period under consideration and at the rates of remuneration attached at that time to the ranks or positions held by him or her during such period, it being assumed that during any absence, he or she was in the rank or position held by him or her at the beginning of the absence, and that prior to becoming a member of the fire department, he or she was in the rank or position first held by him or her in such department.

"Benefit" shall include "allowance," "retirement allowance," "death allowance" and "death benefit."

"Final compensation" shall mean the monthly compensation earnable by a member at the time of his or her retirement, or death before retirement, as

the case may be, at the rate of remuneration attached at that time to the rank or position which said member held, provided that said member has held said rank or position for at least one year immediately prior to said retirement or death; and provided, further, that if said member has not held said rank or position for at least one year immediately prior to said retirement or death, "final compensation," as to such member, shall mean the monthly compensation earnable by such member in the rank or position next lower to the rank or position which he or she held at the time of retirement or death at the rate of remuneration attached at the time of said retirement or death to said next lower rank or position; provided, however, that in the case of a member's death before retirement as the result of a violent traumatic injury received in the performance of his or her duty, "final compensation," as to such member shall mean the monthly compensation earnable by such member at the rate of remuneration attached on the date he or she receives such injury to the rank or position held by such member on that date.

For the purpose of Sections A8.596 through A8.596-14, the terms "member of the fire department," "member of the department," or "member" shall mean any officer or employee of the fire department, who was a member of the fire department on January 1, 2003 and a member of the retirement system under Section A8.585 and who elected to be a member of Section A8.596 as provided in Section A8.596.

Any fire service performed by such members of the fire department outside the limits of the City and County and under orders of a superior officer of any such member, shall be considered as City and County service, and any disability or death incurred therein shall be covered under the provisions of the retirement system.

"Retirement system" or "system" shall mean San Francisco City and County Employees' Retirement System as created in Section A8.500 of the charter.

"Retirement board" shall mean "retirement board" as created in Section 12.100 of the charter.

"Charter" shall mean the charter of the City and County of San Francisco.

Words used in the masculine gender shall include the feminine and neuter gender, words used in the feminine gender shall include the masculine and neuter gender, and singular numbers shall include the plural and the plural the singular.

"Interest" shall mean interest at the rate adopted by the retirement board. (Added November 2002)

#### **A8.596-2 SERVICE RETIREMENT**

Any member of the fire department who completes at least twenty-five (25) years of service in the aggregate and attains the age of fifty (50) years, said service to be computed under Section A8.596-10, may retire for service at his or her option. A member retired after meeting the service and age requirements in the preceding sentence, shall receive a retirement allowance equal to the percent of the final compensation of said member, as defined in Section A8.596-1, set forth below opposite his or her age at retirement, taken to the preceding quarter year, for each year of service, as computed under Section A8.596-10:

<i>Retirement Age</i>	<i>Percent for Each Year of Credited Service</i>
50	2.400
50.25	2.430
50.5	2.460
50.75	2.490
51	2.520
51.25	2.550
51.5	2.580
51.75	2.610
52	2.640
52.25	2.670
52.5	2.700
52.75	2.730
53	2.760
53.25	2.790
53	2.820
53.75	2.850
54	2.880
54.25	2.910
54	2.940
54.75	2.970
55 +	3.000

In no event, however, shall such a retirement allowance exceed ninety (90) percent of a member's final compensation.

If, at the date of retirement for service, or retirement for disability resulting from an injury received in the performance of duty, said member has no spouse, children or dependent parents, who would qualify for the continuance of the allowance after the death of said member, or with respect to the portion of the allowance which would not be continued regardless of dependents, or upon retirement for disability resulting from other causes, with respect to all of the allowance and regardless of dependents at retirement, a member retired under this section, or Section A8.596-3, may elect before the first payment of the retirement allowance is made, to receive the actuarial equivalent of his or her allowance or the portion which would not be continued regardless of dependents, as the case may be, partly in a lesser allowance to be received by him or her throughout his or her life, and partly in other benefits payable after his or her death to another person or persons, provided that such election shall be subject to all the conditions prescribed by the board of supervisors to govern similar election by other members of the retirement system, including the character and amount of such other benefits. (Added November 2002)

#### **A8.596-3 RETIREMENT FOR INCAPACITY**

Any member of the fire department who becomes incapacitated for the performance of his or her duty by reason of any bodily injury received in, or illness caused by the performance of his or her duty, shall be retired. If he or she is not qualified for service retirement, he or she shall receive a retirement allowance in an amount which shall be equal to the same percentage of the final compensation of said member, as defined in Section A8.596-1, as his or her percentage of disability is determined to be. The percentage of disability shall be as determined by the Workers' Compensation Appeals Board of the State of California upon referral from the retirement board for that purpose; provided that the retirement board may, by five affirmative votes, adjust the percentage of disability as determined by said appeals board; and provided, further, that such retirement allowance shall be in an amount not less than 50 percent nor more than 90 percent of the final compensation of said member, as defined in Section A8.596-1. Said allowance shall be paid to said member until the date upon which said member would have qualified for service retirement had he or she lived and rendered



service without interruption in the rank held by the member at retirement, and after said date the allowance payable shall be equal to the retirement allowance said member would have received if retired for service on said date based on the final compensation, as defined in Section A8.596-1, he or she would have received immediately prior to said date, had he or she lived and rendered service as assumed, but such allowance shall not be less than 55 percent of such final compensation.

If, at the time of retirement because of disability, he or she is qualified as to age and service for retirement under Section A8.596-2, he or she shall receive an allowance equal to the retirement allowance which he or she would receive if retired under Section A8.596-2, but not less than 55 percent of said final compensation. Any member of the fire department who becomes incapacitated for performance of his or her duty, by reason of a cause not included under the provisions of the immediately preceding sentences, and who shall have completed at least 10 years of service in the aggregate, computed as provided in Section A8.596-10, shall be retired upon an allowance of one and one-half percent of the final compensation of said member as defined in Section A8.596-1 for each year of service, provided that said allowance shall not be less than 33-1/3 percent of said final compensation; provided, however, that if such member has completed at least 25 years of service in the aggregate, computed as provided in Section A8.596-10, but has not yet attained the age of 50 years, he or she shall receive an allowance equal to the retirement allowance he or she would have received if he or she had attained the age of 50 years and retired under Section A8.596-2 as of the date of retirement for such incapacity. The question of retiring a member under this section may be brought before the retirement board on said board's own motion, by recommendation of the fire commission, or by said member or his or her guardian. If his or her disability shall cease, his or her retirement allowance shall cease, and he or she shall be restored to the service in the rank he or she occupied at the time of his or her retirement. (Added November 2002)

#### **A8.596-4 DEATH ALLOWANCE**

If a member of the fire department shall die before or after retirement by reason of an injury

received in, or illness caused by the performance of his or her duty, a death allowance, in lieu of any allowance payable under any other section of the charter or by ordinance, on account of death resulting from injury received in or illness caused by the performance of duty, shall be paid, beginning on the date next following the date of death, to his or her surviving spouse throughout his or her life or until his or her remarriage. If the member, at the time of death, was qualified for service retirement, but had not retired, the allowance payable shall be equal to the retirement allowance which the member would have received if he or she had been retired for service on the day of death, but such allowance shall not be less than 55 percent of the final compensation earnable by said member immediately preceding death. If death occurs prior to qualification for service retirement, the allowance payable shall be equal to the final compensation of said member at the date of death, until the date upon which said member would have qualified for service retirement, had he or she lived and rendered service without interruption in the rank held by the member at death, and after said date the allowance payable shall be equal to the retirement allowance said member would have received if retired for service on said date, based on the final compensation he or she would have received immediately prior to said date, had he or she lived and rendered service as assumed, but such allowance shall not be less than 55 percent of such monthly final compensation. If he or she had retired prior to death, for service or for disability resulting from injury received in, or illness caused by the performance of duty, the allowance payable shall be equal to the retirement allowance of the member, except that if he or she was a member under Section 5.596 and retirement was for such disability, and if death occurred prior to qualification for the service retirement allowance, the allowance continued shall be reduced upon the date at which said member would have qualified for service retirement, in the same manner as it would have been reduced had the member not died. If there is no surviving spouse entitled to an allowance hereunder, or if he or she dies or remarries before every child of such deceased member attains the age of 18 years, then the allowance which the surviving spouse would have received had he or she lived and not remarried shall be paid to his



or her child or children under said age, collectively, to continue until every such child dies or attains said age, provided that no child shall receive any allowance after marrying or attaining the age of 18 years. Should said member leave no surviving spouse and no children under the age of 18 years, but leave a child or children, regardless of age, dependent upon him or her for support because partially or totally disabled and unable to earn a livelihood or a parent or parents dependent upon him or her for support, the child or children and the parents so dependent shall collectively receive a monthly allowance equal to that which a surviving spouse otherwise would have received, during such dependency. No allowance, however, shall be paid under this section to a surviving spouse following the death of a member unless he or she was married to the member prior to the date of the injury or onset of the illness which results in death. (Added November 2002)

#### **A8.596-5 PAYMENT TO SURVIVING DEPENDENTS**

Upon the death of a member of the fire department resulting from any cause, other than an injury received in, or illness caused by performance of duty;

(a) if his or her death occurred after qualification for service retirement, under Section A8.596-2 or after retirement for service or because of disability which resulted from any cause other than an injury received in, or illness caused by performance of duty, three-fourths of his or her retirement allowance to which the member would have been entitled if he or she had retired for service at the time of death or three-fourths of the retirement allowance as it was at his or her death, as the case may be, shall be continued throughout life or until remarriage to his or her surviving spouse; or

(b) if his or her death occurred after the completion of at least 25 years of service in the aggregate but prior to the attainment of the age of 50 years, three-fourths of the retirement allowance to which he or she would have been entitled under Section A8.596-2 if he or she had attained the age of 50 years on the date of his or her death shall be continued throughout life or until remarriage to his or her surviving spouse; or

(c) if his or her death occurred after retirement for disability by reason of injury received in, or illness caused by performance of duty, his or her retirement allowance as it was at his or her death shall be continued throughout life or until remarriage, to his or her surviving spouse, except that, if death occurred prior to qualification for service retirement allowance, the allowance continued shall be adjusted upon the date of which said member would have qualified for service retirement, in the same manner as it would have been adjusted had the member not died; or

(d) if his or her death occurred after completion of at least 10 years of service in the aggregate, computed as provided in Section A8.596-10, an allowance in an amount equal to the retirement allowance to which the member would have been entitled pursuant to Section A8.596-3 if he or she had retired on the date of death because of incapacity for performance of duty resulting from a cause other than bodily injury received in, or illness caused by performance of duty shall be paid throughout life or until remarriage to his or her surviving spouse.

If there is no surviving spouse entitled to an allowance hereunder, or if he or she dies or remarries before every child of such deceased member attains the age of 18 years, then the allowance which the surviving spouse would have received had he or she lived and not remarried shall be paid to his or her child or children under said age, collectively, to continue until every such child dies or attains said age, provided that no child shall receive any allowance after marrying or attaining the age of 18 years. Should said member leave no surviving spouse and no children under age of 18 years, but leave a child or children, regardless of age, dependent upon him or her for support because partially or totally disabled and unable to earn a livelihood or a parent or parents dependent upon him or her for support, the child or children and the parents so dependent shall collectively receive a monthly allowance equal to that which a surviving spouse otherwise would have received, during such dependency. No allowance, however, shall be paid under this section to a surviving spouse unless he or she was married to the member prior to the date of the injury or onset of the illness which results in death if he or she had not retired, or unless he or she was married to the

member at least one year prior to his or her death if he or she had retired.

As used in this section and Section A8.596-4, "surviving spouse" shall mean and include a surviving spouse, and shall also mean and include a spouse who has remarried since the death of the member, but whose remarriage has been terminated by death, divorce or annulment within five years after the date of such remarriage and who has not thereafter again remarried.

The surviving spouse, in the event of death of the member after qualification for but before service retirement, may elect before the first payment of the allowance, to receive the benefit provided in Section A8.596-8, in lieu of the allowance which otherwise would be continued to him or her under this section. If there is no surviving spouse, the guardian of the eligible child or children may make such election, and if there are no such children, the dependent parent or parents may make such election. "Qualified for service retirement," "Qualification for service retirement," as used in this section and other sections to which persons who are members under Section A8.596 are subject, shall mean completion of 25 years of service and attainment of age 50, said service to be computed under Section A8.596-10. (Added November 2002)

#### **A8.596-6 ADJUSTMENT OF ALLOWANCES**

Every retirement or death allowance payable to or on account of any member under Section A8.596 shall be increased or decreased as of January 1, 2003, and thereafter on the effective date of any legislation fixing the rates of compensation for firefighters under section A8.590-1 et seq. of this charter by an amount equal to 50 percent of any increase or decrease, respectively, in the rate of remuneration attached to the rank or position upon which such retirement or death allowance was based; provided, however, that no allowance shall be reduced below the amount being received by a member or his or her beneficiary on January 1, 2003, or on the date such member or beneficiary began to receive the allowance, whichever is later. (Added November 2002)

#### **A8.596-7 ADJUSTMENT FOR COMPENSATION PAYMENTS**

That portion of any allowance payable because of the death or retirement of any member of the fire department which is provided by contributions of the City and County, shall be reduced, by the amount of any benefits other than medical benefits, payable by the City and County to or on account of such person, under any workers' compensation law or any other general law and because of the injury or illness resulting in said death or retirement. Such portion which is paid because of death or retirement which resulted from injury received in or illness caused by performance of duty, shall be considered as in lieu of all benefits, other than medical benefits, payable to or on account of such person under such law and shall be in satisfaction and discharge of the obligation of the City and County to pay such benefits. (Added November 2002)

#### **A8.596-8 DEATH BENEFIT**

If a member of the fire department shall die, before retirement from causes other than an injury received in or illness caused by the performance of duty, or regardless of cause, if no allowance shall be payable under Section A8.596-4 or A8.596-5 preceding, a death benefit shall be paid to his or her estate or designated beneficiary, the amount of which and the conditions for the payment of which shall be determined in the manner prescribed by the board of supervisors for the death benefit of other members of the retirement system. Upon the death of a member after retirement and regardless of the cause of death, a death benefit shall be paid to his or her estate or designated beneficiary the amount of which and the conditions for the payment of which shall be determined in the manner prescribed by the board of supervisors for the death benefit of other members of the retirement system. (Added November 2002)

#### **A8.596-9 REFUNDS AND REDEPOSITS**

Should any member of the fire department cease to be employed as such a member, through any cause other than death or retirement or transfer to another office or department, all of his or her contributions, with interest credited thereon, shall be refunded to him or her subject to the conditions prescribed by the board of supervisors to govern similar terminations of

employment of other members of the retirement system. If he or she shall again become a member of the department, he or she shall redeposit in the retirement fund, the amount refunded to him or her. Should a member of the fire department become an employee of any other office or department, his or her accumulated contribution account shall be adjusted by payments to or from him or her as the case may be to make the accumulated contributions credited to him or her at the time of change, equal to the amount which would have been credited to him or her if he or she had been employed in said other office or department at the rate of compensation received by him or her in the fire department and he or she shall receive credit for service for which said contributions were made, according to the charter section under which his or her membership in the retirement system continues. (Added November 2002)

#### **A8.596-10 COMPUTATION OF SERVICE**

The following time shall be included in the computation of the service to be credited to a member of the fire department for the purposes of determining whether such member qualified for retirement and calculating benefits, excluding, however, any time, the contributions for which were withdrawn by said member upon termination of his or her service while he or she was a member under any other charter section, and not redeposited upon reentry into service:

(a) Time during and for which said member is entitled to receive compensation because of services as a member of the police or fire department.

(b) Time during which said member is absent from a status included in Subsection (a) next preceding, by reason of service in the armed forces of the United States of America, or by reason of any other service included in Sections A8.520 and A8.521 of the charter, during any war in which the United States was or shall be engaged or during other national emergency, and for which said member contributed or contributes to the retirement system or for which the City and County contributed or contributes on his or her account. (Added November 2002)

#### **A8.596-11 SOURCES OF FUNDS**

All payments provided for members under Section A8.596 shall be made from funds derived from the following sources, plus interest earned on said funds:

(a) There shall be deducted from each payment of compensation made to a member under Section A8.596 a sum equal to seven percent of such payment of compensation. The sum so deducted shall be paid forthwith to the retirement system. Said contribution shall be credited to the individual account of the member from whose salary it was deducted, and the total of said contributions, together with interest credited thereon in the same manner as is prescribed by the board of supervisors for crediting interest to contributions of other members of the retirement system, shall be applied to provide part of the retirement allowance granted to, or allowance granted on account of said member, or shall be paid to said member or his or her estate or beneficiary as provided in Section A8.596-8, A8.596-9 and A8.596-10. A member's individual account under Section A8.596 shall include all monies previously credited to the member's account under Section A8.585.

(b) The dependent contributions of each member under this section which shall be required of each member throughout his or her membership in addition to the normal contributions, and in the same manner as normal contributions, shall be such as, on the average for such member, will provide, assuming service without interruption under Section A8.596-2, and upon he or she first qualifying as to age and service for retirement under that section, one-third of the portion of his or her allowance, which is to be continued under Section A8.596-5 after his or her death and throughout the life of a surviving spouse whose age at said death is three years less than the age of said member. If, at the date of retirement for service or retirement for disability resulting from injury received in the performance of duty, said member has no spouse who would qualify for the continuance of the allowance to him or her after the death of said member, or upon retirement for disability resulting from other causes, regardless of his or her marital conditions, the dependent contributions with accumulated interest thereon, shall be paid to him or her forthwith. The dependent rate of contribution, however, shall not exceed the difference between seven percent and the member's normal rate of contribution, and said dependent rate may be taken as a flat percentage of the member's normal rate, regardless of the age of qualification for service retirement.



(c) The City and County shall contribute to the retirement system such amounts as may be necessary, when added to the contributions referred to in Subsection (a) of this Section A8.596-11, to provide the benefits payable to members under Section A8.596. Such contributions of the City and County to provide the portion of the benefits hereunder shall be made in annual installments, and the installment to be paid in any year shall be determined by the application of a percentage to the total compensation paid during said year to persons who are members under Section A8.596 in accordance with the provisions of Section A8.510.

(d) To promote the stability of the retirement system through a joint participation in the result of variations in the experience under mortality, investment and other contingencies, the contributions of both members and the City and County held by the system to provide benefits for members under Section A8.596, shall be a part of the fund in which all other assets of said system are included.

(e) Any year in which, based upon the retirement system's annual actuarial valuation, the employer contribution rate exceeds 0%, the employee organizations representing safety members shall jointly meet and confer with city representatives to implement a cost sharing arrangement between the city and employee organizations. Such arrangement will effect a material reduction of the cost impact of employer contributions on the city's general fund.

The dollar value of the cost sharing arrangement shall not exceed the total annual cost to the retirement system of improving the police and fire safety retirement plans to the 3% @ 55 benefit level or the total employer contribution required by the retirement system, whichever is lesser. Such cost sharing arrangement shall not require an employee contribution in excess of the limits set elsewhere in this charter.

The meet and confer process, including all impasse procedures under section A8.590-1 et seq., shall be concluded not later than April 1st except by mutual agreement of the parties. The cost sharing arrangement must be finalized to permit implementation effective July 1.

The retirement board's authority under charter section 12.100 and in section A8.510 concerning the annual setting of the rates of contribution are not

impasse procedures under section A8.590-1 et seq. (Added November 2002)

#### **A8.596-12 RIGHT TO RETIRE**

Upon the completion of the years of service set forth in Section A8.596-2 as requisite to retirement, a member of the fire department shall be entitled to retire at any time thereafter in accordance with the provisions of said Section A8.596-2, and nothing shall deprive said member of said right. (Added November 2002)

#### **A8.596-13 LIMITATION IN EMPLOYMENT DURING RETIREMENT**

Except as otherwise provided in Section A 8.511 of this charter, no person retired as a member under Section A8.596 for service or disability and entitled to receive a retirement allowance under the retirement system shall serve in any elective or appointive position in the City and County service, including membership on boards and commissions, nor shall such person receive any payment for service rendered to the City and County after retirement, provided that service as an election officer or juror, or in the preparation for, or the giving of, testimony as an expert witness for or on behalf of the City and County of San Francisco before any court or legislative body shall not be affected by this section. (Added November 2002)

#### **A8.596-14 VESTING**

Notwithstanding any provisions of this charter to the contrary, should any member of the fire department who is a member of the Retirement System under Charter Section A8.596 with five years of credited service, cease to be so employed, through any cause other than death or retirement, he or she shall have the right to elect, without right of revocation and within 90 days after termination of said service, to allow his or her accumulated contributions including interest to remain in the retirement fund and to receive a retirement allowance equal to the percent set forth in Section A8.596-2 opposite his or her age at retirement, for each year of service multiplied against the final compensation of said member, calculated at termination, payable beginning no earlier than age 50. The provisions of Section A8.596-14 shall not apply subject to the meet and confer process, including all



to any members of the retirement system under Section A8.585 who terminated before January 1, 2003 or their continuants. No vesting retirement allowance under this section shall exceed ninety (90%) percent of the member's final compensation.

Any member of the fire department convicted of a crime involving moral turpitude committed in connection with his or her duties as a member of the fire department shall, upon termination of his or her employment pursuant to the provisions of this charter, forfeit all right to any benefits under this section except refund of his or her accumulated contributions.

Every retirement or death allowance payable to or on account of any member under Section A8.596-14 shall be adjusted in accordance with the provisions of Section A8.596-6 provided that if the member's accrued service credit is less than 25 years the Section A8.596-6 adjustment will be multiplied by a fraction where the denominator is 25 and the numerator is equal to the member's accrued service credit at the date of termination. (Added November 2002)

**A8.597 MEMBERS OF THE POLICE  
DEPARTMENT ON JANUARY 1, 2003 WHO  
ARE MEMBERS OF THE RETIREMENT  
SYSTEM UNDER CHARTER SECTION  
A8.586, AND MEMBERS OF THE POLICE  
DEPARTMENT AFTER JANUARY 1, 2003**

Members of the police department on January 1, 2003 who are members of the retirement system under Section A8.586, and persons who become members of the police department, as defined in Section A8.597-1, after January 1, 2003, shall be members of the retirement system subject to the provisions of Sections A8.597 through A8.597-15 (which shall apply only to members under Section A8.597) in addition to the provisions contained in Sections 12.100 to 12.103 and Sections 8.500, 8.510, 8.520 and 8.526 of this charter, notwithstanding the provisions of any other section of this charter, and shall not be subject to any of the provisions of Sections A8.586 of this charter.

The provisions of section A8.597 shall not apply to any member of the retirement system under section A8.586 who separated from service, retired or died before January 1, 2003, or to his or her continuant; provided, however, that the provisions of section A8.597-2 shall apply to the adjustment required in Sections A8.586-3, A8.586-4 and A8.586-5 for a retired member or his or her surviving spouse or

continuant when the retired member would not have completed at least twenty-five (25) years of service in the aggregate and attained the age of fifty (50) years until after January 1, 2003. (Added November 2002)

**A8.597-1 DEFINITIONS**

The following words and phrases as used in this Section, Section A8.597 and Section A8.597-2 through A8.597-14, unless a different meaning is plainly required by the context, shall have the following meanings:

"Retirement allowance," "death allowance" or "allowance," shall mean equal monthly payments, beginning to accrue upon the date of retirement, or upon the day following the date of death, as the case may be, and continuing for life unless a different term of payment is definitely provided by the context.

"Compensation," as distinguished from benefits under the Workers' Compensation Insurance and Safety Act of the State of California, shall mean the remuneration payable in cash, by the City and County, without deduction except for absence from duty, for time during which the individual receiving such remuneration is a member of the police department, but excluding remuneration paid for overtime.

Subject to the requirement that it be payable in cash and that overtime be excluded, "compensation" for pension purposes may be defined in a collective bargaining agreement. Provided, however, that for retirement purposes, any increase in compensation attached to a rank which is based solely upon the possession of a POST certificate, compared to the equivalent rank without a POST certificate, shall be subject to the following limitations:

(a) for possession of the intermediate POST certificate, no more than 4% shall be included in compensation,

(b) for possession of the advanced POST certificate, no more than an additional 2% over the maximum provided in subsection (a), above, shall be included in compensation. These limits shall apply to any pay increments which are solely attributable to the possession of a POST certificate, including but not limited to premiums or special ranks which may be established in the future and which are solely attributable to the possession of a POST certificate.

"Compensation earnable" shall mean the compensation which would have been earned had the member received compensation without interruption throughout the period under consideration and at the

rates of remuneration attached at that time to the ranks or positions held by him or her during such period, it being assumed that during any absence, he or she was in the rank or position held by him or her at the beginning of the absence, and that prior to becoming a member of the police department, he or she was in the rank or position first held by him or her in such department.

"Benefit" shall include "allowance," "retirement allowance," "death allowance" and "death benefit."

"Final compensation" shall mean the average monthly compensation earnable by a member during any one year of credited service in which his or her average compensation is the highest.

For purposes of calculation of final compensation, any increase in pay solely attributable to possession of a POST certificate shall be included only if the member possesses the qualifying POST certificate for a period of not less than four (4) years prior to his or her retirement date; provided, however, that should a member possess the qualifying POST certificate for a period of time less than four (4) years prior to retirement, final compensation shall be calculated based upon the monthly compensation in the next lower rank not requiring possession of the qualifying POST certificate.

For the purpose of Section A8.597 through A8.597-14, the terms "member of the police department," "member of the department," or "member" shall mean any member of the police department on January 1, 2003 who was an active member of the retirement system under Section A8.586, and any officer or employee of the police department employed after January 1, 2003 who was or shall be subject to the charter provisions governing entrance requirements of members of the uniformed force of said department and said terms shall further mean persons employed after January 1, 2003 at an age not greater than the maximum age then prescribed for entrance into employment in said uniformed force, to perform duties now performed under the titles of criminologist, photographer, police woman or jail matron; provided, however, that said terms shall not include any person who has not satisfactorily completed such course of training as may be required by the police department prior to assignment to active duty with said department.

"Retirement system" or "system" shall mean San Francisco City and County Employees' Retirement System as created in Section A8.500 of the charter.

"Retirement board" shall mean "retirement board" as created in Section 3.670 of the charter.

"Charter" shall mean the charter of the City and County of San Francisco.

Words used in the masculine gender shall include the feminine and neuter gender, words used in the feminine gender shall include the masculine and neuter gender, and singular numbers shall include the plural and the plural the singular.

"Interest" shall mean interest at the rate adopted by the retirement board. (Added November 2002)

## **A8.597-2 SERVICE RETIREMENT**

Any member of the police department who completes at least five years of service in the aggregate and attains the age of fifty (50) years, said service to be computed under Section A8.597-10, may retire for service at his or her option. A member retired after meeting the service and age requirements in the preceding sentence, shall receive a retirement allowance equal to the percent of final compensation (as defined in Section A8.597-1) set forth below opposite his or her age at retirement, taken to the preceding completed quarter year, for each year of service, as computed under Section A8.597-10:

<i>Retirement Age</i>	<i>Percent for Each Year of Credited Service</i>
50	2.400
50.25	2.430
50.5	2.460
50.75	2.490
51	2.520
51.25	2.550
51.5	2.580
51.75	2.610
52	2.640
52.25	2.670
52.5	2.700
52.75	2.730
53	2.760
53.25	2.790
53.5	2.820
53.75	2.850
54	2.880
54.25	2.910
54.5	2.940
54.75	2.970
55 +	3.000

In no event, however, shall such a retirement allowance exceed ninety (90) percent of a member's final compensation. (Added November 2002)

#### **A8.597-3 RETIREMENT FOR INCAPACITY**

Any member of the police department who becomes incapacitated for the performance of his or her duty by reason of any bodily injury received in, or illness caused by the performance of his or her duty, shall be retired. If he or she is not qualified for service retirement, he or she shall receive a retirement allowance in an amount which shall be equal to the same percentage of the final compensation of said member, as defined in Section A8.597-1, as his or her percentage of disability is determined to be. The percentage of disability shall be as determined by the Workers' Compensation Appeals Board of the State of California upon referral from the retirement board for that purpose; provided that the retirement board may, by five affirmative votes, adjust the percentage of disability as determined by said appeals board; and provided, further, that such retirement allowance shall be in an amount not less than 50 percent nor more than 90 percent of the final compensation of said member, as defined in Section A8.597-1. Said allowance shall be paid to him or her until the date upon which said member would have completed at least twenty-five (25) years of service in the aggregate and attained the age of fifty (50) years had he or she lived and rendered service without interruption in the rank held by him or her at retirement, and after said date the allowance payable shall be equal to the retirement allowance said member would have received if retired for service on said date based on the final compensation, as defined in Section A8.597-1, he or she would have received immediately prior to said date, had he or she lived and rendered service as assumed, but such allowance shall not be less than 50 percent of such final compensation.

If, at the time of retirement because of disability, he or she is qualified as to age and service for retirement under Section A8.597-2, he or she shall receive an allowance equal to the retirement allowance which he or she would receive if retired under Section A8.597-2, but not less than 50 percent of said final compensation. Any member of the police department who becomes incapacitated for performance of his or her duty by reason of a cause not included under the

provisions of the immediately preceding sentences, and who shall have completed at least 10 years of service in the aggregate, computed as provided in Section A8.597-10, shall be retired upon an allowance of 1-1/2 percent of the final compensation of said member as defined in Section A8.597-1 for each year of service, provided that said allowance shall not be less than 33-1/3 percent of said final compensation. The question of retiring a member under this section may be brought before the retirement board on said board's own motion, by recommendation of the police commission or by said member or his or her guardian. If his or her disability shall cease, his or her retirement allowance shall cease and he or she shall be restored to the service in the rank he or she occupied at the time of his or her retirement. (Added November 2002)

#### **A8.597-4 DEATH ALLOWANCE**

If a member of the police department shall die before or after retirement by reason of an injury received in, or illness caused by the performance of his or her duty, a death allowance, in lieu of any allowance, payable under any other section of the charter or by ordinance, on account of death resulting from injury received in or illness caused by the performance of duty, shall be paid, beginning on the date next following the date of death, to his or her surviving spouse throughout his or her life or until his or her remarriage. If the member, at the time of death, was qualified for service retirement, but he or she had not retired, the allowance payable shall be equal to the retirement allowance which the member would have received if he or she had been retired for service on the date of death, but such allowance shall not be less than 50 percent of the final compensation earnable by said member immediately preceding death. If death occurs prior to qualification for service retirement, the allowance payable shall be equal to the compensation of said member at the date of death, until the date upon which said member would have completed at least twenty-five (25) years of service in the aggregate and attained the age of fifty (50) years, had he or she lived and rendered service without interruption in the rank held by him or her at death, and after said date the allowance payable shall be equal to the retirement allowance said member would have received if retired for service on said date



based on the final compensation he or she would have received prior to said date, had he or she lived and rendered service as assumed, but such allowance shall not be less than 50 percent of such final compensation. If he or she had retired prior to death, for service or for disability resulting from injury received in, or illness caused by the performance of duty, the allowance payable shall be equal to the retirement allowance of the member, except that if he or she was a member under Section A8.597 and retirement was for such disability, and if death occurred prior to qualification for the service retirement allowance, the allowance continued shall be adjusted upon the date at which said member would have completed at least twenty-five (25) years of service in the aggregate and attained the age of fifty (50) years, in the same manner as it would have been adjusted had the member not died.

If there is no surviving spouse entitled to an allowance hereunder, or if he or she dies or remarries before every child of such deceased member attains the age of 18 years, then the allowance which the surviving spouse would have received had he or she lived and not remarried shall be paid to his or her child or children under said age, collectively, until every such child dies or attains said age, provided that no child shall receive any allowance after marrying or attaining the age of 18 years. Should said member leave no surviving spouse and no children under the age of 18 years, but leave a child or children, regardless of age, dependent upon him or her for support because partially or totally disabled and unable to earn a livelihood or a parent or parents dependent upon him or her for support, the child or children and the parents so dependent shall collectively receive a monthly allowance equal to that which a surviving spouse otherwise would have received, during such dependency. No allowance, however, shall be paid under this section to a surviving spouse following the death of a member unless he or she was married to the member prior to the date of the injury or onset of the illness which results in death.

The amendments to this Section A8.597-4, approved by the electorate on November 2, 2004 shall apply to any work-related death that occurs on or after

November 2, 2004, and to any qualified survivor who, on November 2, 2004, is receiving a continuation allowance under this section due to the work-related death of a member on or after January 1, 1989. Any increase in the continuation allowance payable to such a qualified survivor by virtue of the amendments to this section approved by the electorate on November 2, 2004 shall be prospective only, beginning November 2, 2004. (Added November 2002; amended November 2004)

#### **A8.597-5 PAYMENT TO SURVIVING DEPENDENTS**

Upon the death of a member of the police department resulting from any cause other than an injury received in, or illness caused by performance of duty,

(a) if the death occurred after qualification for service retirement under Section A8.597-2, or after retirement service or because of disability which result from any cause other than an injury received in, or illness caused by performance of duty one-half of the retirement allowance to which the member would have been entitled if he or she had retired for service at the date of death or one-half of the retirement allowance as it was at his or her death, as the case may be, shall be continued throughout his or her life or until remarriage to his or her surviving spouse, or

(b) if his or her death occurred after the completion of at least 25 years of service in the aggregate but prior to the attainment of the age of 50 years, one-half of the retirement allowance to which he or she would have been entitled under Section A8.597-2 if he or she had attained the age of 50 years on the date of his or her death shall be continued throughout life or until remarriage to his or her surviving spouse, or

(c) if his or her death occurred after retirement for disability by reason of injury received in or illness caused by performance of duty, three-fourths of his or her retirement allowance as it was at his or her death shall be continued throughout life or until remarriage to his or her surviving spouse, except that, if death occurred prior to qualification for service retirement allowance, the allowance continued shall be adjusted upon the date on which said member would have



completed at least twenty-five (25) years of service in the aggregate and attained the age of fifty (50) years, in the same manner as it would have been adjusted had the member not died, or

(d) if his or her death occurred after completion of at least 10 years of service in the aggregate, computed as provided in Section A8.597-10, an allowance in an amount equal to the retirement allowance to which the member would have been entitled pursuant to Section A8.597-3 if he or she had retired on the date of death because of incapacity for performance of duty shall be paid throughout life or until remarriage to his or her surviving spouse. If there is no surviving spouse entitled to an allowance hereunder, or if he or she dies or remarries before every child of such deceased member attains the age of 18 years, then the allowance which the surviving spouse would have received had he or she lived and not remarried shall be paid to his or her child or children under said age, collectively, to continue until every such child dies or attains said age, provided that no child shall receive any allowance after marrying or attaining the age of 18 years. Should said member leave no surviving spouse and no children, under age of 18 years, but leave a child or children, regardless of age, dependent upon him or her for support because partially or totally disabled and unable to earn a livelihood or a parent or parents dependent upon him or her for support, the child or children and the parents so dependent shall collectively receive a monthly allowance equal to that which a surviving spouse otherwise would have received, during such dependency. No allowance, however shall be paid under this section to a surviving spouse unless he or she was married to the member prior to the date of the injury or onset of the illness which results in death if he or she had not retired, or unless he or she was married to the member at least one year prior to his or her retirement if he or she had retired.

As used in this section and Section A8.597-4 "surviving spouse" shall mean and include a surviving spouse, and shall also mean and include a spouse who has remarried since the death of the member, but whose remarriage has been terminated by death, divorce or annulment within five years after the date of such remarriage and who has not thereafter again remarried.

The surviving spouse, in the event of death of the member after qualification for, but before service retirement, may elect before the first payment of the allowance, to receive the benefit provided in Section A8.597-8, in lieu of the allowance which otherwise would be continued to him or her under this section. If there is no surviving spouse, the guardian of the eligible child or children may make such election, and if there are no such children, the dependent parent or parents may make such election. "Qualified for service retirement," "qualification for service retirement" or "qualified as to age and service for retirement," as used in this section and other sections to which persons who are members under Section A8.597 are subject, shall mean completion of 25 years of service and attainment of age 50, said service to be computed under Section A8.597-10. (Added November 2002)

#### **A8.597-6 ADJUSTMENT OF ALLOWANCES**

Every retirement or death allowance payable to or on account of any member under Section A8.597 shall be adjusted in accordance with the provisions of Subsection (b) of Section A8.526 of this charter. (Added November 2002)

#### **A8.597-7 ADJUSTMENT FOR COMPENSATION PAYMENTS**

That portion of any allowance payable because of the death or retirement of any member of the police department which is provided by contributions of the City and County, shall be reduced, by the amount of any benefits other than medical benefits, payable by the City and County to or on account of such person, under any workers' compensation law or any other general law and because of the injury or illness resulting in said death or retirement. Such portion which is paid because of death or retirement which resulted from injury received in, or illness caused by performance of duty, shall be considered as in lieu of all benefits, other than medical benefits, payable to or on account of such person under such law and shall be in satisfaction and discharge of the obligation of the City and County to pay such benefits. (Added November 2002)

**A8.597-8 DEATH BENEFIT**

If a member of the police department shall die, before retirement from causes other than an injury received in, or illness caused by the performance of duty, or regardless of cause if no allowance shall be payable under Section A8.597-4 or A8.597-5 preceding, a death benefit shall be paid to his or her estate or designated beneficiary, the amount of which and the conditions for the payment of which shall be determined in the manner prescribed by the board of supervisors for the death benefit of other members of the retirement system. Upon the death of a member after retirement and regardless of the cause of death, a death benefit shall be paid to his or her estate or designated beneficiary the amount of which and the conditions for the payment of which shall be determined in the manner prescribed by the board of supervisors for the death benefit of other members of the retirement system. (Added November 2002)

**A8.597-9 REFUNDS AND REDEPOSITS**

Should any member of the police department cease to be employed as such a member, through any cause other than death or retirement or transfer to another office or department, all of his or her contributions, with interest credited thereon, shall be refunded to him or her subject to the conditions prescribed by the board of supervisors to govern similar terminations of employment of other members of the retirement system. If he or she shall again become a member of the department, he or she shall redeposit in the retirement fund the amount refunded to him or her. Should a member of the police department become an employee of any other office or department, his or her accumulated contribution account shall be adjusted by payments to or from him or her as the case may be to make the accumulated contributions credited to him or her at the time of change equal to the amount which would have been credited to him or her if he or she had been employed in said other office or department at the rate of compensation received by him or her in the police department and he or she shall receive credit for service for which said contributions were made, according to the charter section under which his or her membership in the retirement system continues. (Added November 2002)

**A8.597-10 COMPUTATION OF SERVICE**

The following time shall be included in the computation of the service to be credited to a member of the police department for the purposes of determining whether such member qualified for retirement and calculating benefits, excluding, however, any time, the contributions for which were withdrawn by said member upon termination of his or her service while he or she was a member under any other charter section, and not redeposited upon re-entry into service:

(a) Time during and for which said member is entitled to receive compensation because of services as a member of the police or fire department.

(b) Time prior to January 1, 2003, during which said member was entitled to receive compensation while a member of the police or fire department under any other section of the charter, provided that accumulated contributions on account of such service previously refunded are redeposited with interest from the date of refund to the date of redeposit, at times and in the manner fixed by the retirement board; and solely for the purpose of determining qualification for retirement under Section A8.597-3 for disability not resulting from injury received in or illness caused by performance of duty, time during which said member serves and receives compensation because of services rendered in other offices and departments.

(c) Time during which said member is absent from a status included in Subsection (a) next preceding, by reason of service in the armed forces of the United States of America, or by reason of any other service included in Sections A8.520 and A8.521 of the charter, during any war in which the United States was or shall be engaged or during other national emergency, and for which said member contributed or contributes to the retirement system or for which the City and County contributed or contributes on his or her account. (Added November 2002)

**A8.597-11 SOURCES OF FUNDS**

All payments provided for members under Section A8.597 shall be made from funds derived from the following sources, plus interest earned on said funds:

(a) There shall be deducted from each payment of compensation made to a member under Section A8.597 a sum equal to seven percent of such payment of compensation. The sum so deducted shall be paid forthwith to the retirement system. Said contribution shall be credited to the individual account of the member from whose salary it was deducted, and the total of said contributions, together with interest credited thereon in the same manner as is prescribed by the board of supervisors for crediting interest to contributions of other members of the retirement system, shall be applied to provide part of the retirement allowance granted to, or allowance granted on account of said member, or shall be paid to said member or his or her estate or beneficiary as provided in Section A8.597-8, A8.597-9 and A8.597-10. A member's individual account under Section A8.597 shall include all monies previously credited to the member's account under Section A8.586.

(b) The City and County shall contribute to the retirement system such amounts as may be necessary, when added to the contributions referred to in Subsection (a) of this Section A8.597-11, to provide the benefits payable to members under Section A8.597. Such contributions of the City and County to provide the portion of the benefits hereunder shall be made in annual installments, and the installment to be paid in any year shall be determined by the application of a percentage to the total compensation paid during said year to persons who are members under Section A8.597 in accordance with the provisions of Section A8.510.

(c) To promote the stability of the retirement system through a joint participation in the result of variations in the experience under mortality, investment and other contingencies, the contributions of both members and the City and County held by the system to provide benefits for members under Section A8.597, shall be a part of the fund in which all other assets of said system are included.

(d) Any year in which, based upon the retirement system's annual actuarial valuation, the employer contribution rate exceeds 0%, the employee organizations representing safety members shall jointly meet and confer with city representatives to implement a cost sharing arrangement between the

city and employee organizations. Such arrangement will effect a material reduction of the cost impact of employer contributions on the city's general fund.

The dollar value of the cost sharing arrangement shall not exceed the total annual cost to the retirement system of improving the police and fire safety retirement plans to the 3% @ 55 benefit level or the total employer contribution required by the retirement system, whichever is lesser. Such cost sharing arrangement shall not require an employee contribution in excess of the limits set elsewhere in this charter.

The meet and confer process, including all impasse procedures under section A8.590-1 et seq., shall be concluded not later than April 1st except by mutual agreement of the parties. The cost sharing arrangement must be finalized to permit implementation effective July 1.

The retirement board's authority under charter section 12.100 and in section A8.510 concerning the annual setting of the rates of contribution are not subject to the meet and confer process, including all impasse procedures under section A8.590-1 et seq. (Added November 2002)

#### **A8.597-12 RIGHT TO RETIRE**

Upon the completion of the years of service set forth in Section A8.597-2 as requisite to retirement, a member of the police department shall be entitled to retire at any time thereafter in accordance with the provisions of said Section A8.597-2, and, except as provided in the following paragraph, nothing shall deprive said member of said right.

Any member of the police department convicted of a crime involving moral turpitude committed in connection with his or her duties as a member of the police department shall, upon termination of his or her employment pursuant to the provisions of this charter, forfeit all rights to any benefits under the retirement system except refund of his or her accumulated contributions; provided, however, that if such member is qualified for service retirement by reason of service and age under the provisions of Section A8.597-2, he or she shall have the right to elect, without right of revocation and within 90 days of the termination of his or her employment, whether



to withdraw all of his or her accumulated contributions or to receive as his or her sole benefit under the retirement system an annuity which shall be the actuarial equivalent of his or her accumulated contributions at the time of such termination of employment. (Added November 2002)

#### **A8.597-13 LIMITATION ON EMPLOYMENT DURING RETIREMENT**

(a) Except as provided in Section A8.511 of this charter and in Subsection (b) of this section, no person retired as a member under Section A8.597 for service or disability and entitled to receive a retirement allowance under the retirement system shall be employed in any capacity by the City and County, nor shall such person receive any payment for services rendered to the City and County after retirement.

(b) (1) Service as an election officer or juror, or in the preparation for, or giving testimony as an expert witness for or on behalf of the City and County before any court or legislative body shall be affected by the provisions of Subsection (a) of this section.

(2) The provisions of Subsection (a) shall not prevent such retired person from serving on any board or commission of the City and County and receiving the compensation for such office, provided said compensation does not exceed \$100 per month.

(3) If such retired person is elected or appointed to a position or office which subjects him or her to membership in the retirement system under Section A8.597, he or she shall re-enter membership under Section A8.597 and his or her retirement allowance shall be cancelled immediately upon his or her re-entry. The provisions of Subsection (a) of this section shall not prevent such person from receiving the compensation for such position or office. The rate of contributions of such member shall be the same as that for other members under Section A8.597. Such member's individual account shall be credited with an amount which is the actuarial equivalent of his or her annuity at the time of his or her re-entry, but the amount thereof shall not exceed the amount of his or her accumulated contributions at the time of his or her retirement. Such member shall also receive credit for his or her service as it was at the time of his or her retirement.

(c) Notwithstanding any provision of this charter to the contrary, should any person retired for disability engage in a gainful occupation prior to attaining the age of 55 years, the retirement board shall reduce that part of his or her monthly retirement allowance which is provided by contributions of the City and County to an amount which, when added to the amount of the compensation earnable, at the time he or she engages in the gainful occupation, by such person if he or she held the position which he or she held at the time of his or her retirement, or, if that position has been abolished, the compensation earnable by the member if he or she held the position from which he or she was retired immediately prior to its abolishment. (Added November 2002)

#### **A8.597-14 CONFLICTING CHARTER PROVISIONS**

Any section or part of any section in this charter, insofar as it should conflict with the provisions of Section A8.597 through A8.597-15 or with any part thereof, shall be superseded by the contents of said sections. In the event that any word, phrase, clause or section of said sections shall be adjudged unconstitutional, the remainder thereof shall remain in full force and effect. (Added November 2002)

#### **A8.597-15 VESTING**

Notwithstanding any provisions of this charter to the contrary, should any member of the police department who is a member of the Retirement System under Charter Section A8.597 with five years of credited service, cease to be so employed, through any cause other than death or retirement, he or she shall have the right to elect, without right of revocation and within 90 days after termination of said service, to allow his or her accumulated contributions including interest to remain in the retirement fund and to receive a retirement allowance equal to the percent set forth in Section A8.597-2 opposite his or her age at retirement, for each year of service multiplied against the final compensation of said member, calculated at termination, payable beginning no earlier than age 50. No vesting retirement allowance under this section shall exceed ninety (90%) percent of the member's final



compensation. The provisions of Section A8.597-15 shall not apply to any members of the retirement system under Section A8.586 who terminated before January 1, 2003 or their continuants. (Added November 2002)

**A8.598 MEMBERS OF THE FIRE DEPARTMENT ON JANUARY 1, 2003 WHO ARE MEMBERS OF THE RETIREMENT SYSTEM UNDER CHARTER SECTION A8.588, AND MEMBERS OF THE FIRE DEPARTMENT AFTER JANUARY 1, 2003**

Members of the fire department on January 1, 2003 who are members of the retirement system under Section A8.588, and persons who become members of the fire department, as defined in Section A8.598-1, after January 1, 2003, shall be members of the retirement system subject to the provisions of Sections A8.598 through A8.598-15 (which shall apply only to members under Section A8.598) in addition to the provisions contained in Sections 12.100 to 12.103 and Sections 8.500, 8.510, 8.520 and 8.526 of this charter, notwithstanding the provisions of any other section of this charter, and shall not be subject to any of the provisions of Sections A8.588 of this charter.

The provisions of section A8.598 shall not apply to any member of the retirement system under section A8.588 who separated from service, retired or died before January 1, 2003, or to his or her continuant; provided, however, that the provisions of section A8.598-2 shall apply to the adjustment required in Sections A8.588-3, A8.588-4 and A8.588-5 for a retired member or his or her surviving spouse or continuant when the retired member would not have completed at least twenty-five (25) years of service in the aggregate and attained the age of fifty (50) years until after January 1, 2003. (Added November 2002)

**A8.598-1 DEFINITIONS**

The following words and phrases as used in this Section, Section A8.598 and Section A8.598-2 through A8.598-14, unless a different meaning is plainly required by the context, shall have the following meanings:

“Retirement allowance,” “death allowance” or “allowance,” shall mean equal monthly payments, beginning to accrue upon the date of retirement, or upon the day following the date of death, as the case may be, and continuing for life unless a different term of payment is definitely provided by the context.

“Compensation,” as distinguished from benefits under the Workers’ Compensation Insurance and Safety Act of the State of California, shall mean the remuneration payable in cash, by the City and County, without deduction except for absence from duty, for time during which the individual receiving such remuneration is a member of the fire department, but excluding remuneration paid for overtime. Subject to the requirement that it be payable in cash and that overtime be excluded, “compensation” for pension purposes may be defined in a collective bargaining agreement.

“Compensation earnable” shall mean the compensation which would have been earned had the member received compensation without interruption throughout the period under consideration and at the rates of remuneration attached at that time to the ranks or positions held by him or her during such period, it being assumed that during any absence, he or she was in the rank or position held by him or her at the beginning of the absence, and that prior to becoming a member of the fire department, he or she was in the rank or position first held by him or her in such department.

“Benefit” shall include “allowance,” “retirement allowance,” “death allowance” and “death benefit.”

“Final compensation” shall mean the average monthly compensation earnable by a member during any one year of credited service in which his or her average compensation is the highest.

For the purpose of Section A8.598 through A8.598-14, the terms “member of the fire department,” “member of the department,” or “member” shall mean any member of the fire department on January 1, 2003 who was an active member of the retirement system under Section A8.588, and any officer or employee of the fire department employed after January 1, 2003 who was or shall be subject to the charter provisions governing entrance requirements of members of the uniformed force of said department and said terms shall further mean persons

employed after January 1, 2003 at an age not greater than the maximum age then prescribed for entrance into employment in said uniformed force, to perform duties now performed under the titles of pilot of fireboats, or marine engineer of fireboats; provided, however, that said terms shall not include any person who has not satisfactorily completed such course of training as may be required by the fire department prior to assignment to active duty with said department.

"Retirement system" or "system" shall mean San Francisco City and County Employees' Retirement System as created in Section A8.500 of the charter.

"Retirement board" shall mean "retirement board" as created in Section 3.670 of the charter.

"Charter" shall mean the charter of the City and County of San Francisco.

Words used in the masculine gender shall include the feminine and neuter gender, words used in the feminine gender shall include the masculine and neuter gender, and singular numbers shall include the plural and the plural the singular.

"Interest" shall mean interest at the rate adopted by the retirement board. (Added November 2002)

<i>Retirement Age</i>	<i>Percent for Each Year of Credited Service</i>
50	2.400
50.25	2.430
50.5	2.460
50.75	2.490
51	2.520
51.25	2.550
51.5	2.580
51.75	2.610
52	2.640
52.25	2.670
52.5	2.700
52.75	2.730
53	2.760
53.25	2.790
53.5	2.820
53.75	2.850
54	2.880
54.25	2.910
54.5	2.940
54.75	2.970
55+	3.000

## **A8.598-2 SERVICE RETIREMENT**

Any member of the fire department who completes at least five years of service in the aggregate and attains the age of fifty (50) years, said service to be computed under Section A8.598-10, may retire for service at his or her option. A member retired after meeting the service and age requirements in the preceding sentence, shall receive a retirement allowance equal to the percent of final compensation (as defined in Section A8.598-1) set forth below opposite his or her age at retirement, taken to the preceding completed quarter year, for each year of service, as computed under Section A8.598-10:

In no event, however, shall such a retirement allowance exceed ninety (90) percent of a member's final compensation. (Added November 2002)

## **A8.598-3 RETIREMENT FOR INCAPACITY**

Any member of the fire department who becomes incapacitated for the performance of his or her duty by reason of any bodily injury received in, or illness caused by the performance of his or her duty, shall be retired. If he or she is not qualified for service retirement, he or she shall receive a retirement allowance in an amount which shall be equal to the same percentage of the final compensation of said member, as defined in Section A8.598-1, as his or her percentage of disability is determined to be. The percentage of disability shall be as determined by the Workers' Compensation Appeals Board of the State of California upon referral from the retirement board for that purpose; provided that the retirement board may, by five affirmative votes, adjust the percentage of disability as determined by said appeals board; and provided, further, that such retirement allowance shall

be in an amount not less than 50 percent nor more than 90 percent of the final compensation of said member, as defined in Section A8.598-1. Said allowance shall be paid to him or her until the date upon which said member would have completed at least twenty-five (25) years of service in the aggregate and attained the age of fifty (50) years had he or she lived and rendered service without interruption in the rank held by him or her at retirement, and after said date the allowance payable shall be equal to the retirement allowance said member would have received if retired for service on said date based on the final compensation, as defined in Section A8.598-1, he or she would have received immediately prior to said date, had he or she lived and rendered service as assumed, but such allowance shall not be less than 50 percent of such final compensation.

If, at the time of retirement because of disability, he or she is qualified as to age and service for retirement under Section A8.598-2, he or she shall receive an allowance equal to the retirement allowance which he or she would receive if retired under Section A8.598-2, but not less than 50 percent of said final compensation. Any member of the fire department who becomes incapacitated for performance of his or her duty by reason of a cause not included under the provisions of the immediately preceding sentences, and who shall have completed at least 10 years of service in the aggregate, computed as provided in Section A8.598-10, shall be retired upon an allowance of 1-1/2 percent of the final compensation of said member as defined in Section A8.598-1 for each year of service, provided that said allowance shall not be less than 33-1/3 percent of said final compensation. The question of retiring a member under this section may be brought before the retirement board on said board's own motion, by recommendation of the fire commission or by said member or his or her guardian. If his or her disability shall cease, his or her retirement allowance shall cease and he or she shall be restored to the service in the rank he or she occupied at the time of his or her retirement. (Added November 2002)

#### **A8.598-4 DEATH ALLOWANCE**

If a member of the fire department shall die before or after retirement by reason of an injury received in, or illness caused by the performance of his or her duty, a death allowance, in lieu of any allowance, payable under any other section of the charter or by ordinance, on account of death resulting from injury received in or illness caused by the performance of duty, shall be paid, beginning on the date next following the date of death, to his or her surviving spouse throughout his or her life or until his or her remarriage. If the member, at the time of death, was qualified for service retirement, but he or she had not retired, the allowance payable shall be equal to the retirement allowance which the member would have received if he or she had been retired for service on the date of death, but such allowance shall not be less than 50 percent of the final compensation earnable by said member immediately preceding death. If death occurs prior to qualification for service retirement, the allowance payable shall be equal to the compensation of said member at the date of death, until the date upon which said member would have completed at least twenty-five (25) years of service in the aggregate and attained the age of fifty (50) years, had he or she lived and rendered service without interruption in the rank held by him or her at death, and after said date the allowance payable shall be equal to the retirement allowance said member would have received if retired for service on said date, based on the final compensation he or she would have received prior to said date, had he or she lived and rendered service as assumed, but such allowance shall not be less than 50 percent of such final compensation. If he or she had retired prior to death, for service or for disability resulting from injury received in, or illness caused by the performance of duty, the allowance payable shall be equal to the retirement allowance of the member, except that if he or she was a member under Section A8.598 and retirement was for such disability, and if death occurred prior to qualification for the service retirement allowance, the allowance continued shall be adjusted upon the date at which said member would have completed at least twenty-five (25) years



of service in the aggregate and attained the age of fifty (50) years, in the same manner as it would have been adjusted had the member not died.

If there is no surviving spouse entitled to an allowance hereunder, or if he or she dies or remarries before every child of such deceased member attains the age of 18 years, then the allowance which the surviving spouse would have received had he or she lived and not remarried shall be paid to his or her child or children under said age, collectively, until every such child dies or attains said age, provided that no child shall receive any allowance after marrying or attaining the age of 18 years. Should said member leave no surviving spouse and no children under the age of 18 years, but leave a child or children, regardless of age, dependent upon him or her for support because partially or totally disabled and unable to earn a livelihood or a parent or parents dependent upon him or her for support, the child or children and the parents so dependent shall collectively receive a monthly allowance equal to that which a surviving spouse otherwise would have received, during such dependency. No allowance, however, shall be paid under this section to a surviving spouse following the death of a member unless he or she was married to the member prior to the date of the injury or onset of the illness which results in death.

The amendments to this Section A8.597-4, approved by the electorate on November 2, 2004 shall apply to any work-related death that occurs on or after November 2, 2004, and to any qualified survivor who, on November 2, 2004, is receiving a continuation allowance under this section due to the work-related death of a member on or after January 1, 1989. Any increase in the continuation allowance payable to such a qualified survivor by virtue of the amendments to this section approved by the electorate on November 2, 2004 shall be prospective only, beginning November 2, 2004. (Added November 2002; amended November 2004)

#### **A8.598-5 PAYMENT TO SURVIVING DEPENDENTS**

Upon the death of a member of the fire department resulting from any cause other than an injury received in, or illness caused by performance of duty,

(a) if the death occurred after qualification for service retirement under Section A8.598-2, or after retirement service or because of disability which result from any cause other than an injury received in, or illness caused by performance of duty one-half of the retirement allowance to which the member would have been entitled if he or she had retired for service at the date of death or one-half of the retirement allowance as it was at his or her death, as the case may be, shall be continued throughout his or her life or until remarriage to his or her surviving spouse, or

(b) if his or her death occurred after the completion of at least 25 years of service in the aggregate but prior to the attainment of the age of 50 years, one-half of the retirement allowance to which he or she would have been entitled under Section A8.598-2 if he or she had attained the age of 50 years on the date of his or her death shall be continued throughout life or until remarriage to his or her surviving spouse, or

(c) if his or her death occurred after retirement for disability by reason of injury received in or illness caused by performance of duty, three-fourths of his or her retirement allowance as it was at his or her death shall be continued throughout life or until remarriage to his or her surviving spouse, except that, if death occurred prior to qualification for service retirement allowance, the allowance continued shall be adjusted upon the date on which said member would have completed at least twenty-five (25) years of service in the aggregate and attained the age of fifty (50) years, in the same manner as it would have been adjusted had the member not died, or

(d) if his or her death occurred after completion of at least 10 years of service in the aggregate, computed as provided in Section A8.598-10, an allowance in an amount equal to the retirement allowance to which the member would have been entitled pursuant to Section A8.598-3 if he or she had retired on the date of death because of incapacity for performance of duty shall be paid throughout life or



until remarriage to his or her surviving spouse. If there is no surviving spouse entitled to an allowance hereunder, or if he or she dies or remarries before every child of such deceased member attains the age of 18 years, then the allowance which the surviving spouse would have received had he or she lived and not remarried shall be paid to his or her child or children under said age, collectively, to continue until every such child dies or attains said age, provided that no child shall receive any allowance after marrying or attaining the age of 18 years. Should said member leave no surviving spouse and no children, under age of 18 years, but leave a child or children, regardless of age, dependent upon him or her for support because partially or totally disabled and unable to earn a livelihood or a parent or parents dependent upon him or her for support, the child or children and the parents so dependent shall collectively receive a monthly allowance equal to that which a surviving spouse otherwise would have received, during such dependency. No allowance, however shall be paid under this section to a surviving spouse unless he or she was married to the member prior to the date of the injury or onset of the illness which results in death if he or she had not retired, or unless he or she was married to the member at least one year prior to his or her retirement if he or she had retired.

As used in this section and Section A8.598-4 "surviving spouse" shall mean and include a surviving spouse, and shall also mean and include a spouse who has remarried since the death of the member, but whose remarriage has been terminated by death, divorce or annulment within five years after the date of such remarriage and who has not thereafter again remarried.

The surviving spouse, in the event of death of the member after qualification for, but before service retirement, may elect before the first payment of the allowance, to receive the benefit provided in Section A8.598-8, in lieu of the allowance which otherwise would be continued to him or her under this section. If there is no surviving spouse, the guardian of the eligible child or children may make such election, and if there are no such children, the dependent parent or parents may make such election. "Qualified for service retirement," "qualification for service retirement" or "qualified as to age and service for

retirement," as used in this section and other sections to which persons who are members under Section A8.598 are subject, shall mean completion of 25 years of service and attainment of age 50, said service to be computed under Section A8.598-10. (Added November 2002)

#### **A8.598-6 ADJUSTMENT OF ALLOWANCES**

Every retirement or death allowance payable to or on account of any member under Section A8.598 shall be adjusted in accordance with the provisions of Subsection (b) of Section A8.526 of this charter. (Added November 2002)

#### **A8.598-7 ADJUSTMENT FOR COMPENSATION PAYMENTS**

That portion of any allowance payable because of the death or retirement of any member of the fire department which is provided by contributions of the City and County, shall be reduced, by the amount of any benefits other than medical benefits, payable by the City and County to or on account of such person, under any workers' compensation law or any other general law and because of the injury or illness resulting in said death or retirement. Such portion which is paid because of death or retirement which resulted from injury received in, or illness caused by performance of duty, shall be considered as in lieu of all benefits, other than medical benefits, payable to or on account of such person under such law and shall be in satisfaction and discharge of the obligation of the City and County to pay such benefits. (Added November 2002)

#### **A8.598-8 DEATH BENEFIT**

If a member of the fire department shall die, before retirement from causes other than an injury received in, or illness caused by the performance of duty, or regardless of cause if no allowance shall be payable under Section A8.598-4 or A8.598-5 preceding, a death benefit shall be paid to his or her estate or designated beneficiary, the amount of which and the conditions for the payment of which shall be determined in the manner prescribed by the board of supervisors for the death benefit of other members of the retirement system. Upon the death of a member after retirement and regardless of the cause of death,

a death benefit shall be paid to his or her estate or designated beneficiary the amount of which and the conditions for the payment of which shall be determined in the manner prescribed by the board of supervisors for the death benefit of other members of the retirement system. (Added November 2002)

#### **A8.598-9 REFUNDS AND REDEPOSITS**

Should any member of the fire department cease to be employed as such a member, through any cause other than death or retirement or transfer to another office or department, all of his or her contributions, with interest credited thereon, shall be refunded to him or her subject to the conditions prescribed by the board of supervisors to govern similar terminations of employment of other members of the retirement system. If he or she shall again become a member of the department, he or she shall redeposit in the retirement fund the amount refunded to him or her. Should a member of the fire department become an employee of any other office or department, his or her accumulated contribution account shall be adjusted by payments to or from him or her as the case may be to make the accumulated contributions credited to him or her at the time of change equal to the amount which would have been credited to him or her if he or she had been employed in said other office or department at the rate of compensation received by him or her in the fire department and he or she shall receive credit for service for which said contributions were made, according to the charter section under which his or her membership in the retirement system continues. (Added November 2002)

#### **A8.598-10 COMPUTATION OF SERVICE**

The following time shall be included in the computation of the service to be credited to a member of the fire department for the purposes of determining whether such member qualified for retirement and calculating benefits, excluding, however, any time, the contributions for which were withdrawn by said member upon termination of his or her service while he or she was a member under any other charter section, and not redeposited upon re-entry into service:

(a) Time during and for which said member is entitled to receive compensation because of services as a member of the police or fire department.

(b) Time prior to January 1, 2003, during which said member was entitled to receive compensation while a member of the police or fire department under any other section of the charter, provided that accumulated contributions on account of such service previously refunded are redeposited with interest from the date of refund to the date of redeposit, at times and in the manner fixed by the retirement board; and solely for the purpose of determining qualification for retirement under Section A8.598-3 for disability not resulting from injury received in or illness caused by performance of duty, time during which said member serves and receives compensation because of services rendered in other offices and departments.

(c) Time during which said member earned compensation as a paramedic with the fire department or department of public health, provided that the accumulated contributions on account of such service are transferred to his or her Section A8.598 account or, if previously refunded, are redeposited with interest from the date of refund to the date of redeposit, at times and in the manner fixed by the retirement board. The retirement board shall require that said member execute a waiver so that any paramedic service covered by Section A8.598 is not also covered by other pension provisions in this charter. Members of the fire department on January 1, 2003, who are members of the retirement system under Section A8.598, shall execute and file said waiver on or before June 30, 2003. Persons who become members of the fire department, as defined in Section A8.598-1, after January 1, 2003, shall execute and file said waiver within 90 days after their effective date of membership. Failure to file a timely waiver shall bar any application to have such paramedic service treated as safety service under this subsection.

(d) Time during which said member is absent from a status included in Subsection (a) next preceding, by reason of service in the armed forces of the United States of America, or by reason of any other service included in Sections A8.520 and A8.521 of the charter, during any war in which the United States was or shall be engaged or during other national emergency, and for which said member contributed or contributes to the retirement system or for which the City and County contributed or contributes on his or her account. (Added November 2002)

**A8.598-11 SOURCES OF FUNDS**

All payments provided for members under Section A8.598 shall be made from funds derived from the following sources, plus interest earned on said funds:

(a) There shall be deducted from each payment of compensation made to a member under Section A8.598 a sum equal to seven percent of such payment of compensation. The sum so deducted shall be paid forthwith to the retirement system. Said contribution shall be credited to the individual account of the member from whose salary it was deducted, and the total of said contributions, together with interest credited thereon in the same manner as is prescribed by the board of supervisors for crediting interest to contributions of other members of the retirement system, shall be applied to provide part of the retirement allowance granted to, or allowance granted on account of said member, or shall be paid to said member or his or her estate or beneficiary as provided in Section A8.598-8, A8.598-9 and A8.598-10. A member's individual account under Section A8.598 shall include all monies previously credited to the member's account under Section A8.588.

(b) The City and County shall contribute to the retirement system such amounts as may be necessary, when added to the contributions referred to in Subsection (a) of this Section A8.598-11, to provide the benefits payable to members under Section A8.598. Such contributions of the City and County to provide the portion of the benefits hereunder shall be made in annual installments, and the installment to be paid in any year shall be determined by the application of a percentage to the total compensation paid during said year to persons who are members under Section A8.598 in accordance with the provisions of Section A8.510.

(c) To promote the stability of the retirement system through a joint participation in the result of variations in the experience under mortality, investment and other contingencies, the contributions of both members and the City and County held by the system to provide benefits for members under Section A8.598, shall be a part of the fund in which all other assets of said system are included.

(d) Any year in which, based upon the retirement system's annual actuarial valuation, the employer contribution rate exceeds 0%, the employee organizations representing safety members shall jointly meet and confer with city representatives to implement a cost sharing arrangement between the city and employee organizations. Such arrangement will effect a material reduction of the cost impact of employer contributions on the city's general fund.

The dollar value of the cost sharing arrangement shall not exceed the total annual cost to the retirement system of improving the police and fire safety retirement plans to the 3% @ 55 benefit level or the total employer contribution required by the retirement system, whichever is lesser. Such cost sharing arrangement shall not require an employee contribution in excess of the limits set elsewhere in this charter.

The meet and confer process, including all impasse procedures under section A8.590-1 et seq., shall be concluded not later than April 1st except by mutual agreement of the parties. The cost sharing arrangement must be finalized to permit implementation effective July 1.

The retirement board's authority under charter section 12.100 and in section A8.510 concerning the annual setting of the rates of contribution are not subject to the meet and confer process, including all impasse procedures under section A8.590-1 et seq. (Added November 2002)

**A8.598-12 RIGHT TO RETIRE**

Upon the completion of the years of service set forth in Section A8.598-2 as requisite to retirement, a member of the fire department shall be entitled to retire at any time thereafter in accordance with the provisions of said Section A8.598-2, and, except as provided in the following paragraph, nothing shall deprive said member of said right.

Any member of the fire department convicted of a crime involving moral turpitude committed in connection with his or her duties as a member of the fire department shall, upon termination of his or her employment pursuant to the provisions of this charter, forfeit all rights to any benefits under the retirement system except refund of his or her accumulated contributions; provided, however, that if such member



is qualified for service retirement by reason of service and age under the provisions of Section A8.598-2, he or she shall have the right to elect, without right of revocation and within 90 days of the termination of his or her employment, whether to withdraw all of his or her accumulated contributions or to receive as his or her sole benefit under the retirement system an annuity which shall be the actuarial equivalent of his or her accumulated contributions at the time of such termination of employment. (Added November 2002)

### **A8.598-13 LIMITATION ON EMPLOYMENT DURING RETIREMENT**

(a) Except as provided in Section A8.511 of this charter and in Subsection (b) of this section, no person retired as a member under Section A8.598 for service or disability and entitled to receive a retirement allowance under the retirement system shall be employed in any capacity by the City and County, nor shall such person receive any payment for services rendered to the City and County after retirement.

(b) (1) Service as an election officer or juror, or in the preparation for, or giving testimony as an expert witness for or on behalf of the City and County before any court or legislative body shall be affected by the provisions of Subsection (a) of this section.

(2) The provisions of Subsection (a) shall not prevent such retired person from serving on any board or commission of the City and County and receiving the compensation for such office, provided said compensation does not exceed \$100 per month.

(3) If such retired person is elected or appointed to a position or office which subjects him or her to membership in the retirement system under Section A8.598, he or she shall re-enter membership under Section A8.598 and his or her retirement allowance shall be cancelled immediately upon his or her re-entry. The provisions of Subsection (a) of this section shall not prevent such person from receiving the compensation for such position or office. The rate of contributions of such member shall be the same as that for other members under Section A8.598. Such member's individual account shall be credited with an amount which is the actuarial equivalent of his or her annuity at the time of his or her re-entry, but the amount thereof shall not exceed the amount of his or

her accumulated contributions at the time of his or her retirement. Such member shall also receive credit for his or her service as it was at the time of his or her retirement.

(c) Notwithstanding any provision of this charter to the contrary, should any person retired for disability engage in a gainful occupation prior to attaining the age of 55 years, the retirement board shall reduce that part of his or her monthly retirement allowance which is provided by contributions of the City and County to an amount which, when added to the amount of the compensation earnable, at the time he or she engages in the gainful occupation, by such person if he or she held the position which he or she held at the time of his or her retirement, or, if that position has been abolished, the compensation earnable by the member if he or she held the position from which he or she was retired immediately prior to its abolishment. (Added November 2002)

### **A8.598-14 CONFLICTING CHARTER PROVISIONS**

Any section or part of any section in this charter, insofar as it should conflict with the provisions of Section A8.598 through A8.598-15 or with any part thereof, shall be superseded by the contents of said sections. In the event that any word, phrase, clause or section of said sections shall be adjudged unconstitutional, the remainder thereof shall remain in full force and effect. (Added November 2002)

### **A8.598-15 VESTING**

Notwithstanding any provisions of this charter to the contrary, should any member of the fire department who is a member of the Retirement System under Charter Section A8.598 with five years of credited service, cease to be so employed, through any cause other than death or retirement, he or she shall have the right to elect, without right of revocation and within 90 days after termination of said service, to allow his or her accumulated contributions including interest to remain in the retirement fund and to receive a retirement allowance equal to the percent set forth in Section A8.598-2 opposite his or her age at retirement, for each year of service multiplied against the final compensation of



said member, calculated at termination, payable beginning no earlier than age 50. No vesting retirement allowance under this section shall exceed ninety (90%) percent of the member's final compensation. The provisions of Section A8.598-15 shall not apply to any members of the retirement system under Section A8.588 who terminated before January 1, 2003 or their continuants. (Added November 2002)

#### **A8.599 TAX-DEFERRED PLANS FOR ACCUMULATED COMPENSATION**

The board of supervisors is empowered to enact, by a vote of three-fourths of its members, such ordinances as it deems necessary to establish a plan or plans, consistent with federal and state requirements, to provide for the deferred taxation of accumulated vacation, sick leave or other compensation earned by and payable to employees on account of and after their separation from City and County employment. The City and County of San Francisco does not and cannot represent or guarantee that any particular federal or state income, payroll or other tax consequence will occur by reason of an employee's participation in these plans nor whether there will be gains or losses on moneys paid into these plans. The Retirement Board shall administer any such plans. The Retirement Board may contract with a financially responsible independent contractor to serve as the third party administrator of any such plans. The Retirement Board shall manage such plans in compliance with federal and state tax laws and ensure that plan benefits do not conflict with or reduce benefits under the Retirement System. The reasonable and necessary administrative costs of this plan shall not be borne by the City and County but by the participants and by any third party plan administrator appointed hereunder. (Added March 2004)

*[The next page is number 131.]*

*[The next page is number 131.]*

## APPENDIX B: PORT AGREEMENTS\*

\* Citations in these appendices to other Charter sections refer to provisions of the 1932 Charter, as amended. Not all of those provisions have been carried forward under the new Charter.

B3.581	Powers and Duties
B3.582	Transfer of Harbor
B3.583	Status of Employees
B3.584	Budgeting and Fiscal Procedure
B3.585	Legal Advisor
B6.406	Harbor Revenues and Expenditures
B7.305	Revenue Bonds of the Port Commission

### B3.581 POWERS AND DUTIES

The port commission shall have all the powers and duties given to boards and commissions by Section 3.500 of the charter and shall have the power to establish such departments and bureaus as may be necessary or convenient for the conduct of its affairs. Subject to the terms and conditions of the transfer and any supplemental agreements relating thereto, the port commission shall have the control and management of all real and personal property transferred under the Statutes 1968, ch. 1333, or otherwise acquired or purchased with funds under its control or acquired or purchased by it within the scope of its authority, or otherwise placed under its management, supervision and control. The property under the control and management of the commission shall be known as the port area. The port commission shall have the power and duty to use, conduct, operate, maintain, manage, regulate, and control the port area of San Francisco and to do all things it deems necessary in connection with the use, conduct, operation, management, maintenance, regulation, improvement and control of said port area, or which may further the interests of the port in world trade, including, without limiting the generality of the foregoing, the exclusive power to perform or accomplish the following:

(a) The improvement, operation and conduct of the harbor, and any and all improvements or facilities located thereon;

(b) The construction, reconstruction, repair, operation and use of all works, buildings, facilities, utilities, structures and appliances incidental, necessary or convenient for the promotion and accommodation of commerce and navigation, or located within the port area;

(c) The establishment, improvement and conduct of railroad and aviation facilities and all works, buildings, facilities, utilities, structures and appliances incidental, necessary or convenient for the promotion and conduct of air commerce and navigation and railroad transportation;

(d) The construction, reconstruction, repair, maintenance and operation of public buildings, parks, playgrounds, public educational and recreation facilities and all works, buildings, facilities, structures and appliances incidental, necessary or convenient for the promotion and accommodation of any such uses;

(e) The preservation or restoration of marine resources consistent with the primary mission of the harbor of San Francisco;

(f) The grant of franchises thereof for limited periods not exceeding 66 years for wharves and other public uses and purposes and the lease of said lands, facilities, or any part thereof for limited periods not exceeding 66 years, and the collection and retention of rents and other revenues from such leases, franchises, permits, licenses and privileges. Such lease or leases, franchises, permits, licenses, and privileges shall be for purposes consistent with the trusts upon which the lands are held by the state and with the requirements of commerce and navigation, or if the port commission of the City and County of San Francisco determines that any portion of the transferred lands is not required for the foregoing uses described in this section, such lease or leases, franchises, permits, licenses, and privileges, may be for the purposes of such development and use as the commission finds

will yield maximum profits to be used by the commission in the furtherance of commerce and navigation;

(g) Leases and franchises granted or made by the port commission shall be administered exclusively by the operating forces of the port commission;

(h) The power to nominate for appointment a port director who shall be the chief executive of the port commission and who shall have the management of all the affairs and activities placed under the jurisdiction of the commission. The mayor shall appoint a port director. He shall devote his entire time to the duties of his office and his salary shall be fixed by the commission. He shall hold his office at the pleasure of the commission and shall have the management of said harbor and of all of the facilities and equipment thereof and all bureaus and departments established for the operation of said harbor or for the operation of any equipment or facility thereof. Subject to the approval of the commission he shall appoint and remove any and all heads of departments or bureaus, who may not be subject to the civil service provisions of the charter. He shall possess the necessary administrative, executive and technical qualifications necessary to enable him to perform the duties of his office. His compensation shall not exceed prevailing salaries paid those holding similar positions in comparable maritime employment. The commission may confer on him such additional powers and authority as it may see fit;

(i) To regulate the berthing, anchoring, towing, loading and unloading and mooring of vessels within the port;

(j) To issue receipts, negotiable or otherwise, for property or merchandise in its charge or possession;

(k) To fix all rates, dockage, rentals, tolls, wharfage, and charges, for the use and occupation of the public facilities or appliances of the port, and for services rendered by the port commission, and to provide for the collection thereof;

(l) To enter into contracts, agreements, or stipulations germane to the scope of its powers and duties;

(m) To give such bonds or assurances as may be required by the United States in the operations permitted hereunder;

(n) To provide and equip offices within or without the port, within other states, or in foreign countries, and through such employees and agencies as it may deem expedient;

(o) To contract for and operate foreign trade zones within the port area or auxiliary to the port area, or such zones or sub-zones as have been operated by the San Francisco Port Authority. Agreement may be made with the public utilities commission for operation of future zones or sub-zones in other areas;

(p) Members and officers of the port commission shall be exempt from the provisions of the city charter relating to absences from the state, but shall advise the mayor and the board of supervisors in advance of such absences;

(q) May promote the maritime and commercial interests of the harbor by advertising its advantages and facilities and by the solicitation of business. The advertising and solicitation may be conducted within or without this state and through such agencies, mediums, employees and agents as are determined by the commission. The commission may, in its discretion, publish and distribute a magazine, pamphlets, booklets and other printed and advertising matter for the purpose of developing traffic and promoting and maintaining the commerce and prestige of the port, and may use any moneys of the harbor fund for the special purposes authorized by this provision. Members and employees of the commission in attending conventions of port authorities and meetings of transportation clubs, trade associations and business organizations that may advance the interests of the port shall be allowed their actual necessary expenses in the performance of such services as may from time to time be deemed desirable by the commission and shall be allowed hospitality expenses necessarily incurred in furthering the interests of the port;

(r) To issue revenue bonds as provided in Section 7.305;

(s) To expend all funds necessary to the carrying out of the powers and duties herein expressed;

(t) This section does hereby vest in the port commission all of the powers set forth in Section 3 and Section 5 of the Statutes of 1968, Chapter 1333, which provisions are hereby incorporated in the charter by this reference.



**B3.582 TRANSFER OF HARBOR**

The City and County of San Francisco shall accept the transfer and assume jurisdiction and control of the harbor of San Francisco and the facilities thereof in accordance with the terms and conditions of Statutes 1968, ch. 1333. All the powers and duties incident to the management, government, control and administration of said harbor and all properties and utilities used in connection therewith, shall be vested in the port commission of the City and County of San Francisco.

The board of supervisors of the City and County of San Francisco shall have and is hereby granted power to enter into any agreement with the State of California, the director of finance, or any officer, agency or commission of the State of California, and to pass all necessary legislation and to do or perform any other act or acts deemed necessary to effect the transfer of the jurisdiction and control of the harbor of San Francisco, or any of the facilities thereof, to the City and County of San Francisco.

**B3.583 STATUS OF EMPLOYEES**

All employees of the port authority who, at the time the transfer provided for herein shall go into effect, are members of the Public Employees' Retirement System of the State of California shall continue to be members of said Public Employees' Retirement System, with all the rights, privileges and benefits of said system and they shall not be members of the San Francisco City and County Employees' Retirement System; and, notwithstanding any other provisions of this charter, the city and county shall perform all acts necessary to continue the membership of such employees in said Public Employees' Retirement System.

All employees of the port authority who, at the time the transfer provided for herein shall go into effect, are covered under the provisions of a retirement program other than the Public Employees' Retirement System of the State of California shall thereafter continue to be covered under such retirement program and they shall not be members of the San Francisco City and County Employees' Retirement System; and, notwithstanding any other provisions of this charter, the city and county shall perform all acts necessary to continue the coverage of such employees under such retirement program.

Persons who, after the transfer provided for herein has gone into effect, become employees of the city and county in positions related to the operation of the State Belt Railroad and who become covered under the provisions of the Railroad Retirement Act by virtue of their employment in such positions shall not be members of the San Francisco City and County Employees' Retirement System.

**B3.584 BUDGETING AND FISCAL PROCEDURE**

In the matter of the control and operation of the harbor and of the facilities and equipment thereof, including the matter of budgets and appropriations, the port commission shall be subject to the budgetary and fiscal procedure elsewhere provided for in this charter.

**B3.585 LEGAL ADVISOR**

The city attorney shall be the legal advisor of the commission, and may, with the approval of the commission, compromise, settle or dismiss any litigation or legal proceeding, pending for or on behalf of the commission relative to any matter under its jurisdiction, and said commission may with the consent of the mayor and the approval of the city attorney appoint special counsel.

**B6.406 HARBOR REVENUES AND EXPENDITURES**

The revenues of the harbor and of all properties and facilities incident thereto, or used in connection therewith, shall be deposited in a separate fund in the treasury of the city and county; and a harbor trust fund or trust funds shall be established by the city and county; and the city and county shall deposit in the fund or funds all monies received attributable to facilities on the transferred lands in the harbor.

Subject to the terms and conditions of Statute 1968, ch. 1333, appropriations from such funds shall be made for the following purposes and in the order named, viz:

(a) for the payment of maintenance and operating expenses, pension charges and proportionate payments to such compensation and other insurance and accident reserve funds as the commission may establish or the board of supervisors may require;

(b) for payment of the principal and interest of any obligations of the State of California and assumed or agreed to be paid by the City and County of San Francisco;

(c) for the payment of principal, interest, reserve funds, sinking funds, and other funds established for the benefit of revenue bonds issued pursuant to the authority contained in Section 7.305 of this charter;

(d) for capital improvements to the properties of said harbor or used in connection with the operation thereof;

(e) for the payment of the principal and interest on any general obligation bonds issued by the City and County of San Francisco for the acquisition, construction, repair or extension of said harbor or of any of the facilities used in connection therewith;

(f) an amount which shall be sufficient to meet the cost of reconstruction and replacement made necessary by the physical and functional depreciation of any of the properties or equipment of said harbor as the same shall occur;

(g) to pay for extension and betterments to said harbor or to the equipment and facilities thereof; and,

(h) to establish a surplus or sinking fund for the improvement or extension of the harbor or any facility used in connection therewith.

### **B7.305 REVENUE BONDS OF THE PORT COMMISSION**

The Port Commission shall have the exclusive power to perform or accomplish the issuance of revenue bonds in the same manner and to the same extent as is provided for by the San Francisco Harbor Revenue Bond Act of 1951, enacted by Stats. 1951, Chapter 1712, page 4020, of the Statutes of California and codified as Sections 3300 to 3369 of the Harbors and Navigation Code of the State of California, except that the provisions of said Act codified as Section 3338 of the said Harbors and Navigation Code shall not be applicable to these bonds and the bonds shall instead be governed by the following provision:

The San Francisco Port Commission may fix terms and conditions for the sale or other disposition of any authorized issue of bonds and may provide that the bonds may be sold on the basis of the lowest net interest cost to the San Francisco Port Commission, the coupon rates to be fixed by the successful bidder on the sale of the bonds. The San Francisco Port

Commission may authorize the City Treasurer to sell bonds at less than their par or face value, but no bond may be sold at a price below 95 percent of the principal amount of the bond and accrued interest thereon. The said San Francisco Port Commission may set the annual rate or rates of interest which the bonds to be issued shall bear, which rate or rates, at the discretion of the said Commission, may be determined by the bidder at the time of sale of said bonds. Such interest may be payable at such periods as may be fixed by the Commission.

All of the other provisions of said Act are by this reference incorporated in and made a part of this charter, except that where the term "Board of State Harbor Commissioners" is used it shall be deemed to mean the "Port Commission," and where the term "San Francisco Harbor" is used it shall be deemed to mean all the property under the jurisdiction of the San Francisco Port Commission, and where the term "San Francisco Harbor Bond Finance Board" or "Bond Finance Board" is used it shall be deemed to mean "Board of Supervisors of the City and County of San Francisco," and where the term "Attorney General of the State of California" is used it shall be deemed to mean "City Attorney," and where the term "State Treasurer" is used it shall be deemed to mean "City Treasurer," and where the term "State Controller" is used it shall be deemed to mean "City Controller." The revenue bonds issued hereunder shall be known as "Revenue Bonds of the Port Commission of San Francisco."

## APPENDIX C: ETHICS PROVISIONS\*

\* Citations in these appendices to other Charter sections refer to provisions of the 1932 Charter, as amended. Not all of those provisions have been carried forward under the new Charter.

C3.699-10	Administration and Implementation
C3.699-11	Duties
C3.699-12	Requests for and Issuance of Options; Advice
C3.699-13	Investigations and Enforcement Proceedings
C3.699-14	Commission Funding
C3.699-15	[Repealed]
C3.699-16	Transfer of Position
C8.105	[Repealed]

### C3.699-10 ADMINISTRATION AND IMPLEMENTATION

The Commission shall have responsibility for the impartial and effective administration and implementation of the provisions of this charter, statutes and ordinances concerning campaign finance, lobbying, conflicts of interest and governmental ethics.

### C3.699-11 DUTIES

The ethics commission shall have the following duties and responsibilities:

1. To administer the provisions of the San Francisco Municipal Elections Campaign Contribution Control Ordinance, and Proposition F, adopted by voters at the June 1986 election, which appears as Appendix K to this charter or any successors to these ordinances.

2. To receive documents required to be filed pursuant to, and to otherwise administer, the provisions of the city's lobbyist registration ordinance.

3. To act as the filing officer and to otherwise receive documents in any instance where the clerk of the board of supervisors, the registrar of voters and, with respect to members of the boards and commissions, department heads would otherwise be authorized to do so pursuant to Chapters 4 and 7 of the California Political Reform Act of 1974

(Government Code sections 81000, et seq.), as amended.

4. To audit campaign statements and other relevant documents and investigate alleged violations of state law, this charter and city ordinances relating to campaign finance, governmental ethics and conflicts of interest and to report the findings to the district attorney, city attorney and other appropriate enforcement authorities. Commission investigation of alleged violations of state law shall be conducted only after the commission has provided to the district attorney and city attorney the information set forth in Section 3.699-12 and the district attorney and city attorney notify the commission that no investigation will be pursued.

5. To provide assistance to agencies, public officials and candidates in administering the provisions of this charter and other laws relating to campaign finance, conflicts of interest and governmental ethics.

6. To make recommendations to the mayor and the board of supervisors concerning (a) campaign finance reform, (b) adoption of and revisions to city ordinances laws related to conflict of interest and lobbying laws and governmental ethics and (c) the submission to the voters of charter amendments relating to campaign finance, conflicts of interest and governmental ethics. The commission shall report to the board of supervisors and mayor annually concerning the effectiveness of such laws. The commission shall transmit its first set of recommendations to the board of supervisors and mayor no later than July 1, 1995.

7. To maintain a whistleblower hot line and administer the provisions of the city's improper government activities ordinance.

8. To annually adjust any limitation and disclosure thresholds imposed by city law to reflect any increases or decreases in the Consumer Price Index. Such adjustments shall be rounded off to



the nearest hundred dollars for the limitations on contributions.

9. To assist departments in developing and maintaining their conflict of interest codes as required by state law.

10. To advocate understanding of the charter and city ordinances related to campaign finance, conflicts of interest, lobbying, governmental ethics and open meetings and public records, and the roles of elected and other public officials, city institutions and the city electoral process.

11. To have full charge and control of its office, to be responsible for its proper administration, subject to the budgetary and fiscal provisions of the charter.

12. To prescribe forms for reports, statements, notices and other documents required by this charter or by ordinances now in effect or hereafter adopted relating to campaign finance, conflicts of interest, lobbying and governmental ethics.

13. To prepare and publish manuals and instructions setting forth methods of bookkeeping, preservation of records to facilitate compliance with and enforcement of the laws relating to campaign finance, conflicts of interest, lobbying and governmental ethics, and explaining applicable duties of persons and committees.

14. To develop an educational program, including but not limited to the following components:

(a) Seminars, when deemed appropriate, to familiarize newly elected and appointed officers and employees, candidates for elective office and their campaign treasurers, and lobbyists with city, state and federal ethics laws and the importance of ethics to the public's confidence in municipal government.

(b) Annual seminars for top-level officials, including elected officers and commissioners, to reinforce the importance of compliance with, and to inform them of any changes in, the law relating to conflicts of interest, lobbying, governmental ethics and open meetings and public records.

(c) A manual which will include summaries, in simple, non-technical language, of ethics laws and reporting requirements applicable to city officers and employees, instructions for completing required forms, questions and answers regarding common problems and situations, and information regarding sources of assistance in resolving questions. The

manual shall be updated when necessary to reflect changes in applicable city, state and federal laws governing the ethical conduct of city employees.

(d) A manual which will include summaries, in simple, non-technical language, of city ordinances related to open meetings and public records, questions and answers regarding common problems and situations, and information regarding sources of assistance in resolving questions. The manual shall be updated when necessary to reflect changes in applicable city ordinances related to open meetings and public records.

### **C3.699-12 REQUESTS FOR AND ISSUANCES OF OPINIONS; ADVICE**

(a) Any person may request the commission to issue a written opinion with respect to that person's duties under provisions of this charter or any ordinance relating to campaign finance, conflicts of interest, lobbying or governmental ethics. The commission shall, within 21 days, transmit its proposed opinion to the city attorney and district attorney, provided that the commission, or its executive director, can extend this time for good cause. Within ten working days of receipt of the proposed opinion, the city attorney and district attorney shall advise the commission whether they concur in the proposed opinion. If either the city attorney or district attorney do not concur with the proposed opinion, he or she shall inform the commission in writing concerning the basis for disagreement. No person who acts in good faith on an opinion issued by the commission and concurred in by the city attorney and district attorney shall be subject to criminal or civil penalties for so acting, provided that the material facts are as stated in the opinion request. The commission's opinions shall be public records and may from time to time be published.

(b) The commission may authorize its staff to issue informal oral advice to any person with respect to that person's duties under provisions of this charter or any ordinance relating to campaign finance, conflicts of interest, lobbying or governmental ethics. Reliance on such oral advice shall not be a defense in any enforcement proceeding.

(c) Subject to the civil service provisions of this charter, the commission may employ individuals who



have graduated from a state accredited law school for the purpose of assisting the commission prepare opinions and providing advice under this section. These employees shall have no authority to provide advice to or represent the city and county or any of its officers or employees.

(d) Nothing in this section shall be construed to prevent city and county officers and employees from seeking advice from the city attorney concerning conflict of interest and governmental ethics laws.

### **C3.699-13 INVESTIGATIONS AND ENFORCEMENT PROCEEDINGS**

The commission shall conduct investigations in accordance with this subdivision of alleged violations of this charter and city ordinances relating to campaign finance, lobbying, conflicts of interest and governmental ethics.

#### **(a) Investigations.**

If the commission, upon the receipt of a sworn complaint of any person or its own initiative, has reason to believe that a violation of this charter or city ordinances relating to campaign finance, lobbying, conflicts of interest or governmental ethics has occurred, the commission immediately shall forward the complaint or information in its possession regarding the alleged violation to the district attorney and city attorney. Within ten working days, after receipt of the complaint or information, the district attorney and city attorney shall inform the commission in writing regarding whether the district attorney or city attorney has initiated or intends to pursue an investigation of the matter.

If the commission, upon the sworn complaint or on its own initiative, determines that there is sufficient cause to conduct an investigation, it shall investigate alleged violations of this charter or city ordinances relating to campaign finance, lobbying, conflicts of interest and governmental ethics. A complaint filed with the commission shall be investigated only if it identifies the specific alleged violations which form the basis for the complaint and the commission determines that the complaint contains sufficient facts to warrant an investigation.

Within 14 days after receiving notification that neither the district attorney nor city attorney intends to

pursue an investigation, the commission shall notify in writing the person who made the complaint of the action, if any, the commission has taken or plans to take on the complaint, together with the reasons for such action or non-action. If no decision has been made within 14 days, the person who made the complaint shall be notified of the reasons for the delay and shall subsequently receive notification as provided above.

The investigation shall be conducted in a confidential manner. Records of any investigation shall be considered confidential information to the extent permitted by state law. Any member or employee of the commission or other person who, prior to a determination concerning probable cause, discloses information about any preliminary investigation, except as necessary to conduct the investigation, shall be deemed guilty of official misconduct. The unauthorized release of confidential information shall be sufficient grounds for the termination of the employee or removal of the commissioner responsible for such release.

#### **(b) Findings of Probable Cause.**

No finding of probable cause to believe that a provision of this charter or city ordinances relating to campaign finance, lobbying, conflicts of interest or governmental ethics has been violated shall be made by the commission unless, at least 21 days prior to the commission's consideration of the alleged violation, the person alleged to have committed the violation is notified of the alleged violation by service of process or registered mail with return receipt requested, is provided with a summary of the evidence, and is informed of his or her right to be present in person and to be represented by counsel at any proceeding of the commission held for the purpose of considering whether probable cause exists for believing the person committed the violation. Notice to the alleged violator shall be deemed made on the date of service, the date the registered mail receipt is signed, or, if the registered mail receipt is not signed, the date returned by the post office. A proceeding held for the purpose of considering probable cause shall be private to the extent permitted by state law unless the alleged violator files with the commission a written request that the proceeding be public.

## (c) Administrative Orders and Penalties.

(i) When the commission determines there is probable cause for believing a provision of this charter or city ordinance has been violated, it may hold a public hearing to determine if such a violation has occurred. When the commission determines on the basis of substantial evidence presented at the hearing that a violation has occurred, it shall issue an order which may require the violator to:

(1) Cease and desist the violation;

(2) File any reports, statements or other documents or information required by law; and/or

(3) Pay a monetary penalty to the general fund of the city of up to five thousand dollars (\$5,000) for each violation or three times the amount which the person failed to report properly or unlawfully contributed, expended, gave or received, whichever is greater. Penalties that are assessed but uncollected after 60 days shall be referred to the bureau of delinquent revenues for collection.

In addition, with respect to city officers other than those identified in Section 8.107 of this charter, when the commission determines on the basis of substantial evidence presented at the hearing that a violation has occurred, the commission may recommend to the appointing officer that the officer be removed from office.

When the commission determines that no violation has occurred, it shall publish a declaration so stating.

(d) In addition to any other penalty that may be imposed by law, any person who violates any provision of this charter or of a city ordinance relating to campaign finance, lobbying, conflicts of interest or governmental ethics, or who causes any other person to violate any such provision, or who aids and abets any other person in such violation, shall be liable under the provisions of this section. (Amended November 2001)

**C3.699-14 COMMISSION FUNDING**

The ethics commission may impose fees related to the administration and enforcement of ordinances and provisions of this charter related to campaign finance, lobbying, campaign consultants and governmental ethics. The fees shall become effective 30 days after their approval by the commission unless the board of supervisors, by a vote of two-thirds of all of its members, disapproves the fees within this 30 day period. (Amended November 2001)

**C3.699-15**

(Repealed November 2001)

**C3.699-16 TRANSFER OF POSITION**

Upon the effective date of this section, the civil service commission immediately shall conduct a study to classify a position and determine the proper salary for the ethics commission employee who will be primarily responsible for administering and enforcing the city's Improper Government Activities Ordinance. Effective July 1, 1994, the mayor and board of supervisors shall transfer from the mayor's office to the ethics commission one position. This transfer will be effected as follows. The mayor and board of supervisors will adopt an ordinance eliminating one position in the mayor's office. The position eliminated shall be the position with the salary that most closely approximates the salary determined by the civil service commission for the employee who will be primarily responsible for administering and enforcing the city's Improper Government Activities Ordinance. At the same time, the mayor and board of supervisors shall adopt an ordinance creating and funding the position of the ethics commission employee who will be primarily responsible for administering and enforcing the city's Improper Government Activities Ordinance.

**C8.105**

(Repealed November 2003)

*[The next page is number 143.]*

## APPENDIX D: BUILDING INSPECTION PROVISIONS\*

\* Citations in these appendices to other Charter sections refer to provisions of the 1932 Charter, as amended. Not all of those provisions have been carried forward under the new Charter.

D3.750	Establishment
D3.750-1	Commission; Compensation
D3.750-2	Director of Building Inspection; Other Executives
D3.750-3	Secretary of Commission; Consultants
D3.750-4	Powers and Duties
D3.750-5	Actions of Commission
D3.750-6	Approval of Budgets
D3.750-7	Technical Boards and Advisory Committees
D3.750-8	Severability

### D3.750 ESTABLISHMENT

Recognizing that the provision of safe and sanitary buildings is essential to the welfare of the inhabitants of the City and County of San Francisco, there is hereby established a Department of Building Inspection which shall consist of a Building Inspection Commission, a Director of Building Inspection, and such employees as may be necessary to carry out the functions and duties of said department. The commission shall organize, reorganize, and manage the department. When the commission assumes management of the department, the Bureau of Building Inspection shall cease to exist. Unless modified or repealed by the commission, all orders, regulations, rules, and policies of the Bureau of Building Inspection will remain in effect. Except as limited below, positions in the Bureau of Building Inspection of the Department of Public Works legally authorized on the date the commission assumes management of the department shall be continued, and incumbents therein legally appointed thereto shall be continued as officers and employees of the department under the conditions governing their respective appointments.

### D3.750-1 COMMISSION; COMPOSITION

The Department of Building Inspection shall be under the management of a Building Inspection Commission consisting of seven members. Four members shall be appointed by the mayor for a term of two years; provided that the respective terms of office of those first appointed shall be as follows: two for one year, and two for two years from the effective date of this section. Three members shall be appointed by the President of the Board of Supervisors for a term of two years; provided that the respective terms of office of those first appointed shall be as follows: three for one year from the effective date of this section. The initial appointments shall be made no later than fifteen days after the effective date of this section, and the commission's management shall begin no later than forty-five days after the effective date of this section. Vacancies occurring in the offices of appointive members, either during or at expiration of term, shall be filled by the electoral office that made the appointment. The four mayoral appointments shall be comprised of a structural engineer, a licensed architect, a residential builder, and a representative of a community-based non-profit housing development corporation. The three Supervisorial appointments shall be comprised of a residential tenant, a residential landlord, and a member of the general public. The members of the commission shall serve without compensation.

Pursuant to Government Code Section 87103, individuals appointed to the commission under this section are intended to represent and further the interest of the particular industries, trades, or professions specified herein. Accordingly, it is found that for purposes of persons who hold such office, the specified industries, trades, or professions are tantamount to and constitute the public generally within the meaning of Government Code Section 87103.



**D3.750-2 DIRECTOR OF BUILDING INSPECTION; OTHER EXECUTIVES**

The Director of Building Inspection shall be the department head and appointing officer of the Department of Building Inspection and shall be qualified by either technical training or administrative experience in the enforcement of building and other construction codes. The Director shall serve as the building official of the city and county and, upon his or her appointment, shall assume all of the powers and duties of the Director of Public Works with respect to the administration and enforcement of the building code and other construction codes. The Director shall have all the powers provided for department heads as set forth in Section 3.501 of this Charter. The Director shall be appointed by the commission and hold office at its pleasure; the person who has civil service status in the position of Superintendent of the Bureau of Building Inspection on the date the commission assumes management of the department shall serve as interim Director pending the appointment of a Director by the commission. Subject to the approval of the commission, and the budgetary and fiscal provisions of this Charter, the Director shall have the power to appoint and remove, at his or her pleasure, up to one deputy superintendent and no more than two assistant superintendents, all of whom shall be exempt from the civil service provisions of this Charter.

The Director shall not serve as an officer or member of any standing or ad hoc committee of any building industry or code development or enforcement organization or public agency other than the City and County of San Francisco without the prior approval of the commission.

**D3.750-3 SECRETARY OF COMMISSION; CONSULTANTS**

The Building Inspection Commission may appoint a secretary, which appointment shall not be subject to the civil service provisions of this Charter. Subject to the provisions of Section 6.302, 6.312 and 6.313 of this Charter, the commission may also contract with engineers or other consultants for such services as it may require.

**D3.750-4 POWERS AND DUTIES**

The Building Inspection Commission shall organize, reorganize, and manage the Department of Building Inspection which shall have responsibility for

the enforcement, administration, and interpretation of the city's Housing, Building, Mechanical, Electrical, and Plumbing Codes, except where this Charter specifically grants that power to another department. The Central Permit Bureau, formerly within the Bureau of Building Inspection, shall also be managed by the commission.

The commission shall inspect and regulate additions, alterations, and repairs in all buildings and structures covered by the San Francisco Housing, Building, Mechanical, Electrical, and Plumbing Codes. Nothing in this chapter shall diminish or alter the jurisdiction of the Planning Department over changes of use or occupancy under the Planning Code. The commission shall ensure the provision of minimum standards to safeguard life or limb, health, property, and the public welfare by regulating and controlling the safe use of such buildings and structures. The commission shall ensure the vigorous enforcement of city laws mandating the provision of heat and hot water to residential tenants. The commission shall also ensure the enforcement of local, state, and federal disability access laws. The commission shall be a policy-making and supervisory body with all the powers provided for in Section 3.500 of this Charter.

The commission shall constitute the Abatement Appeals Board, and shall assume all powers granted to this entity under this Charter and the San Francisco Building Code. The commission shall appoint and may remove at its pleasure members of the Board of Examiners, Access Appeals Board, and Code Advisory Committee, all of which shall have the powers and duties to the extent set forth in the San Francisco Building Code.

The commission shall have the power to hold hearings and hear appeals on all decisions made by the Department of Public Works regarding permits under one or more of the codes enumerated in this section and on sidewalk or encroachment permits. The commission may reverse, affirm or modify determinations made by the Department of Public Works, Water Department, or Department of Building Inspection on all permits required for a final certificate of completion. The commission's jurisdiction under this section, however, shall not extend to permits appealable to the Planning Commission or Board of Permit Appeals. Departmental decisions on permits subject to commission review shall be made within the



time mandates of the state Permit Streamlining Act. Appeals of decisions must be filed with the commission within fifteen days of the challenged determination. The commission shall act on the appeal within a reasonable time. The commission's action shall be final.

#### **D3.750-5 ACTIONS OF COMMISSION**

The commission shall adopt rules and regulations consistent with fulfilling its responsibilities under this Charter. The commission shall also adopt rules and regulations governing commission meetings and also adopt requirements for notification and mailing for commission business. The commission shall hold public hearings on all proposed amendments to the San Francisco Building Code, Electrical Code, Housing Code, Plumbing Code, and Mechanical Code.

The Building Inspection Commission shall have the sole authority to contract for the publication of the San Francisco Housing, Building, Mechanical, Electrical, and Plumbing Codes, and any amendments thereto. Other provisions of this Charter and the Administrative Code notwithstanding, the selection of a publisher shall be based on the lowest retail cost to the public of a complete set of these codes.

#### **D3.750-6 APPROVAL OF BUDGETS**

The commission shall initially be funded out of the 1994-95 budget approved for the Bureau of Building Inspection, and subsequent funding shall come from the budget of the Department of Building Inspection.

The Director of Building Inspection shall submit a proposed department budget for each upcoming fiscal year for approval by the commission. The proposed budget shall be compiled in such detail as shall be required on uniform blanks furnished by the controller. The Building Inspection Commission must hold at least two public hearings on the respective budget proposal.

The final budget for the Department of Building Inspection must be approved by a favorable vote of at least five commissioners.

#### **D3.750-7 TECHNICAL BOARDS AND ADVISORY COMMITTEES**

The technical boards and advisory committees established in the Building Code by ordinance of the

Board of Supervisors shall continue in existence as boards and committees within the Department of Building Inspection. Members of the boards and committees shall be appointed by the commission. Incumbents legally appointed to these respective bodies prior to the commission's assumption of management of the department shall serve at the pleasure of the commission.

#### **D3.750-8 SEVERABILITY**

If any provision of this section, or its application to any person or circumstance, shall be held invalid or unenforceable, the remainder of this section and its applications shall not be affected; every provision of this section is intended to be severable.

The Clerk of the Board of Supervisors is hereby authorized to recodify this amendment as may be necessary.



## APPENDIX E: SUPERVISORIAL DISTRICT BOUNDARIES

In accordance with Charter Section 13.110, the eleven supervisorial districts are described in this appendix to the Charter as follows:

FIRST SUPERVISORIAL DISTRICT, shall comprise all of that portion of the City and County commencing at the point of the intersection of the shoreline of the Pacific Ocean and a straight line extension of Lincoln Way; thence easterly along Lincoln Way to Arguello Boulevard; thence northerly along Arguello Boulevard to Kezar Drive; thence easterly along Kezar Drive to the northern access road to Kezar Stadium; thence easterly and southerly along the northern and eastern perimeter of Kezar Stadium to the easternmost point of the perimeter; thence easterly through the Kezar Stadium parking lot to Stanyan Street midway between Beulah Street and Frederick Street; thence northerly along Stanyan Street to Hayes Street; thence easterly along Hayes Street to Shrader Street; thence northerly along Shrader Street to Grove Street; thence easterly along Grove Street to Cole Street; thence northerly along Cole Street to Fulton Street; thence easterly along Fulton Street to Masonic Avenue; thence northerly along Masonic Avenue to Geary Boulevard; thence westerly along Geary Boulevard to Arguello Boulevard; thence northerly along Arguello Boulevard to California Street; thence westerly along California Street to 11th Avenue; thence northerly along 11th Avenue to Lake Street; thence westerly along Lake Street to 25th Avenue; thence southerly along 25th Avenue to California Street; thence westerly along California Street to 32nd Avenue; thence northerly along 32nd Avenue to El Camino Del Mar; thence westerly along El Camino Del Mar to the eastern boundary of Lincoln Park; thence northerly along said boundary to the shoreline of the Pacific Ocean; thence westerly and southerly along said shoreline to the point of commencement.

SECOND SUPERVISORIAL DISTRICT, shall comprise all of that portion of the City and County

commencing at the point of intersection of the shoreline of the Pacific Ocean and the eastern boundary of Lincoln Park; thence southerly along said boundary to El Camino Del Mar; thence easterly along El Camino Del Mar to 32nd Avenue; thence southerly along 32nd Avenue to California Street; thence easterly along California Street to 25th Avenue; thence northerly along 25th Avenue to Lake Street; thence easterly along Lake Street to 11th Avenue; thence southerly along 11th Avenue to California Street; thence easterly along California Street to Arguello Boulevard; thence southerly along Arguello Boulevard to Geary Boulevard; thence easterly along Geary Boulevard to Masonic Avenue; thence southerly along Masonic Avenue to Turk Boulevard; thence easterly along Turk Boulevard to Broderick Street; thence northerly along Broderick Street to Post Street; thence westerly along Post Street to Lyon Street; thence northerly along Lyon Street to Sutter Street; thence easterly along Sutter Street to Baker Street; thence northerly along Baker Street to Pine Street; thence easterly along Pine Street to Broderick Street; thence northerly along Broderick Street to California Street; thence easterly along California Street to Gough Street; thence southerly along Gough Street to the intersection of a straight-line extension of O'Farrell Street; thence easterly along said straight line extension and O'Farrell Street to Van Ness Avenue; thence northerly along Van Ness Avenue to Union Street; thence easterly along Union Street to Hyde Street; thence northerly along Hyde Street to Filbert Street; thence easterly along Filbert Street to Leavenworth Street; thence northerly along Leavenworth Street to Columbus Avenue; thence northwesterly along Columbus Avenue to Beach Street; thence westerly along Beach Street to Hyde Street; thence northerly along Hyde Street to Jefferson Street; thence westerly along Jefferson Street and a

westerly straight-line extension thereof to the point of intersection with the shoreline of San Francisco Bay; thence generally westerly and southerly along said shoreline to the point of commencement and including all piers, rows and vessels.

THIRD SUPERVISORIAL DISTRICT, shall comprise all of that portion of the City and County commencing at the point of intersection of an easterly straight line extension of Jefferson Street and the shoreline of San Francisco Bay; thence easterly along Jefferson Street to Hyde Street; thence southerly along Hyde Street to Beach Street; thence easterly along Beach Street to Columbus Avenue; thence south-easterly along Columbus Avenue to Leavenworth Street; thence southerly along Leavenworth Street to Filbert Street; thence westerly along Filbert Street to Hyde Street; thence southerly along Hyde Street to Union Street; thence westerly along Union Street to Van Ness Avenue; thence southerly along Van Ness Avenue to Post Street; thence easterly along Post Street to Mason Street; thence southerly along Mason Street to Geary Boulevard; thence easterly along Geary Boulevard to Market Street; thence north-easterly along Market Street to Steuart Street; thence southeasterly along Steuart Street to Mission Street; thence northeasterly along Mission Street and a straight-line extension thereof to the shoreline of the San Francisco Bay; thence generally northerly and westerly along said shoreline to the point of commencement and including all piers, rows and vessels.

FOURTH SUPERVISORIAL DISTRICT shall comprise all of that portion of the City and County commencing at the point of the intersection of the shoreline of the Pacific Ocean and a straight-line extension of Lincoln Way; thence easterly along Lincoln Way to 19th Avenue; thence southerly along 19th Avenue to Sloat Boulevard; thence westerly along Sloat Boulevard and a straight-line extension thereof to the point of intersection with the shoreline of the Pacific Ocean; thence northerly along said shoreline to the point of commencement.

FIFTH SUPERVISORIAL DISTRICT shall comprise all of that portion of the City and County commencing at the point of the intersection of Lincoln

Way and 19th Avenue; thence easterly along Lincoln Way to Arguello Boulevard; thence northerly along Arguello Boulevard to Kezar Drive; thence easterly along Kezar Drive to the northern access road to Kezar Stadium; thence easterly and southerly along the northern and eastern perimeter of Kezar Stadium to the easternmost point of the perimeter; thence easterly through the Kezar Stadium parking lot to Stanyan Street midway between Beulah Street and Frederick Street; thence northerly along Stanyan Street to Hayes Street; thence easterly along Hayes Street to Shrader Street; thence northerly along Shrader Street to Grove Street; thence easterly along Grove Street to Cole Street; thence northerly along Cole Street to Fulton Street; thence easterly along Fulton Street to Masonic Avenue; thence northerly along Masonic Avenue to Turk Boulevard; thence easterly along Turk Boulevard to Broderick Street; thence northerly along Broderick Street to Post Street; thence westerly along Post Street to Lyon Street; thence northerly along Lyon Street to Sutter Street; thence easterly along Sutter Street to Baker Street; thence northerly along Baker Street to Pine Street; thence easterly along Pine Street to Broderick Street; thence northerly along Broderick Street to California Street; thence easterly along California Street to Gough Street; thence southerly along Gough Street to Geary Boulevard; thence westerly along Geary Boulevard to Laguna Street; thence southerly along Laguna Street to McAllister Street; thence easterly along McAllister Street to Gough Street; thence southerly along Gough Street to Market Street; thence southwesterly along Market Street to the point midway between Valencia Street and State Highway Route 101; thence northerly along a straight-line extension from said point to Haight Street; thence westerly along Haight Street to Webster Street; thence southerly along Webster Street to Waller Street; thence westerly along Waller Street and a straight-line extension thereof to Buena Vista Avenue East; thence north-westerly along Buena Vista Avenue East to Haight Street; thence westerly along Haight Street to Buena Vista Avenue West; thence southerly along Buena Vista Avenue West to Frederick Street; thence westerly along Frederick Street to Ashbury Street; thence southerly and southwesterly along Ashbury Street to Clayton Street; thence southerly along Clayton Street to Twin Peaks Boulevard; thence



southwesterly along Twin Peaks Boulevard to Clarendon Avenue; thence westerly along Clarendon Avenue to a straight-line extension of Stanyan Street; thence northerly along Stanyan Street to Parnassus Avenue; thence westerly along Parnassus Avenue to Woodland Avenue; thence generally southerly along Woodland Avenue to Willard Street; thence northerly on Willard Street to Belmont Avenue; thence northwesterly along Belmont Avenue to Edgewood Avenue; thence northerly along Edgewood Avenue to Farnsworth Lane; thence easterly along Farnsworth Lane and the Farnsworth Lane steps to Willard Street; thence northerly along Willard Street to Parnassus Avenue; thence westerly along Parnassus Avenue to 4th Avenue; thence southerly along 4th Avenue and a straight-line extension thereof to Kirkham Street; thence westerly along Kirkham Street to 9th Avenue; thence northerly along 9th Avenue to Judah Street; thence westerly along Judah Street to 19th Avenue; thence northerly along 19th Avenue to the point of commencement.

**SIXTH SUPERVISORIAL DISTRICT** shall comprise all of that portion of the City and County commencing at the point of the intersection of a northeasterly straight line extension of Mission Street and the shoreline of San Francisco Bay; thence southwesterly along said straight-line extension of Mission Street to Steuart Street; thence northeasterly along Steuart Street to Market Street; thence southwesterly along Market Street to Geary Boulevard; thence westerly along Geary Boulevard to Mason Street; thence northerly along Mason Street to Post Street; thence westerly along Post Street to Van Ness Avenue; thence southerly along Van Ness Avenue to O'Farrell Street; thence westerly along O'Farrell Street and a straight-line extension of O'Farrell Street to Gough Street; thence northerly along Gough Street to Geary Boulevard; thence westerly along Geary Boulevard to Laguna Street; thence southerly along Laguna Street to McAllister Street; thence easterly along McAllister Street to Gough Street; thence southerly along Gough Street to Market Street; thence southwesterly along Market Street to Guerrero Street; thence southerly along Guerrero Street to 17th Street; thence easterly along 17th Street to Valencia Street; thence southerly along Valencia Street to Sycamore

Street; thence easterly along Sycamore Street to Lexington Street; thence southerly along Lexington Street to 18th Street; thence easterly along 18th Street to Shotwell Street; thence southerly along Shotwell Street to 19th Street; thence easterly along 19th Street to Treat Avenue; thence southerly along Treat Avenue to 20th Street; thence easterly along 20th Street to Potrero Avenue; thence northerly along Potrero Avenue to Alameda Street; thence easterly along Alameda Street to Utah Street; thence northerly along Utah Street to Division Street; thence easterly along Division Street to Townsend Street; thence northeasterly along Townsend Street to 7th Street; thence southeasterly along 7th Street and a straight-line extension thereof to Pennsylvania Avenue; thence northerly along Pennsylvania Avenue to 16th Street; thence easterly along 16th Street to Illinois Street; thence southerly along Illinois Street to the point of intersection with Mariposa Street and Terry A. Francois Boulevard; thence northeasterly along Terry A. Francois Boulevard to the intersection of a straight-line extension of 16th Street; thence easterly along said extension to the shoreline of San Francisco Bay; thence generally northerly along said shoreline to the point of commencement and including all piers, rows and vessels. The sixth supervisorial district shall include Alcatraz, Yerba Buena and Treasure Islands.

**SEVENTH SUPERVISORIAL DISTRICT** shall comprise all of that portion of the City and County commencing at the point of the intersection of the southern boundary of the City and County and the center line of Interstate Route 280; thence northeasterly along Interstate Route 280 to a straight line extension of the intersection of Orizaba Avenue, Brotherhood Way and Alemany Boulevard; thence northwesterly and westerly from said intersection along Brotherhood Way to Junipero Serra Boulevard; thence northerly along Junipero Serra Avenue to Holloway Avenue; thence easterly along Holloway Avenue to Ashton Avenue; thence northerly along Ashton Avenue to Ocean Avenue; thence generally southeasterly and easterly along Ocean Avenue to the southern border of Balboa Park; thence easterly along the southern border of Balboa Park to a point one-third of the distance from the southwest corner of Balboa Park to the southeast corner of Balboa Park;

thence northwesterly from said point to the northern border of Balboa Park at Havelock Street; thence westerly along Havelock Street and a straight-line extension thereof to Interstate Route 280; thence generally northeasterly along Interstate Route 280 to a straight-line extension from the intersection of Circular Avenue, Detroit Street and Judson Avenue; thence northerly along said straight-line extension to the intersection of Circular Avenue, Detroit Street and Judson Avenue; thence northeasterly from said intersection along Circular Avenue to Hearst Avenue; thence westerly along Hearst Avenue to Congo Street; thence northerly along Congo Street to Mangels Avenue; thence westerly along Mangels Avenue to Detroit Street; thence northerly along Detroit Street to Melrose Avenue; thence easterly along Melrose Avenue to Congo Street; thence generally northerly, then southeasterly to Bosworth Street; thence northwesterly along Bosworth Street to O'Shaughnessy Boulevard; thence generally northwesterly along O'Shaughnessy Boulevard to Portola Drive; thence easterly along Portola Drive to Twin Peaks Boulevard; thence generally northerly along Twin Peaks Boulevard to Clarendon Avenue; thence westerly along Clarendon Avenue and a straight-line extension thereof to Stanyan Street; thence northerly along Stanyan Street to Parnassus Avenue; thence westerly along Parnassus Avenue to Woodland Avenue; thence generally southerly along Woodland Avenue to Willard Street; thence northerly along Willard Street to Belmont Avenue; thence northwesterly along Belmont Avenue to Edgewood Avenue; thence northerly along Edgewood Avenue to Farnsworth Lane; thence easterly along Farnsworth Lane and the Farnsworth Lane steps to Willard Street; thence northerly along Willard Street to Parnassus Avenue; thence westerly along Parnassus Avenue to 4th Avenue; thence southerly along 4th Avenue and a straight-line extension thereof to Kirkham Street; thence westerly along Kirkham Street to 9th Avenue; thence northerly along 9th Avenue to Judah Street; thence westerly along Judah Street to 19th Avenue; thence southerly along 19th Avenue to Sloat Boulevard; thence westerly along Sloat Boulevard and a straight-line extension thereof to the point of the intersection with the shoreline of the Pacific Ocean; thence southerly along said shoreline to the boundary of the City and County; thence easterly along said boundary to the point of commencement.

EIGHTH SUPERVISORIAL DISTRICT shall comprise all of that portion of the City and County commencing at the point of the intersection of Circular Avenue and Hearst Avenue; thence westerly along Hearst Avenue to Congo Street; thence northerly along Congo Street to Mangels Avenue; thence westerly along Mangels Avenue to Detroit Street; thence northerly along Detroit Street to Melrose Avenue; thence easterly along Melrose Avenue to Congo Street; thence generally northerly then southeasterly to Bosworth Street; thence northwesterly along Bosworth Street to O'Shaughnessy Boulevard; thence generally northwesterly along O'Shaughnessy Boulevard to Portola Drive; thence easterly along Portola Drive to Twin Peaks Boulevard; thence generally northerly along Twin Peaks Boulevard to Clarendon Avenue; thence easterly along Clarendon Avenue to Twin Peaks Boulevard; thence northeasterly along Twin Peaks Boulevard to Clayton Street; thence northerly along Clayton Street to Ashbury Street; thence northeasterly and northerly along Ashbury Street to Frederick Street; thence easterly along Frederick Street to Buena Vista Avenue West; thence northerly along Buena Vista Avenue West to Haight Street; thence easterly along Haight Street to Buena Vista Avenue East; thence southeasterly along Buena Vista Avenue East to a straight line extension of Waller Street; thence easterly along said extension and Waller Street to Webster Street; thence northerly along Webster Street to Haight Street; thence easterly along Haight Street to a straight-line extension of the point on Market Street midway between Valencia Street and State Highway Route 101; thence southerly along said extension to Market Street; thence southwesterly along Market Street to Guerrero Street; thence southerly along Guerrero Street to 17th Street; thence easterly along 17th Street to Valencia Street; thence southerly along Valencia to 22nd Street; thence westerly along 22nd Street to San Jose Avenue; thence southerly along San Jose Avenue to 24th Street; thence westerly along 24th Street to Guerrero Street; thence southerly along Guerrero Street to Duncan Street; thence easterly along Duncan Street to San Jose Avenue; thence southwesterly along San Jose Avenue to the point of intersection with Interstate Route 280; thence southwesterly along Interstate Route 280 to the point of commencement.

**NINTH SUPERVISORIAL DISTRICT** shall comprise all of that portion of the City and County commencing at the point of the intersection of Valencia Street and Sycamore Street; thence southerly along Valencia to 22nd Street; thence westerly along 22nd street to San Jose Avenue; thence southerly along San Jose Avenue to 24th Street; thence westerly along 24th Street to Guerrero Street; thence southerly along Guerrero Street to Duncan Street; thence easterly along Duncan Street to San Jose Avenue; thence southwestly along San Jose Avenue to the point of intersection with Interstate Route 280; thence easterly along Interstate Route 280 a straight line extension of Stoneybrook Avenue; thence southerly along said straight line extension and Stoneybrook Avenue to Cambridge Street; thence easterly along Cambridge Street to Stoneyford Avenue; thence southerly along Stoneyford Avenue to Gladstone Drive; thence easterly along Gladstone Drive to Sunglow Lane; thence southerly along Sunglow Lane to Silver Avenue; thence westerly along Silver Avenue to Madison Street; thence southerly along Madison Street to Burrows Street; thence easterly along Burrows Street to Harvard Street; thence southerly along Harvard Street to Bacon Street; thence easterly along Bacon Street to Oxford Street; thence southerly along Oxford Street to Wayland Street; thence easterly along Wayland Street to Cambridge Street; thence southerly along Cambridge Street to the point of intersection with John McLaren Park; thence easterly along the boundary of John McLaren Park to Yale Street; thence westerly along Yale Street to Wayland Street; thence easterly along Wayland Street to University Street; thence northerly along University Street to Felton Street; thence easterly along Felton Street to Bowdoin Street; thence southerly along Bowdoin Street to Burrows Street; thence easterly along Burrows Street to San Bruno Avenue; thence southerly along San Bruno Avenue to Bacon Street; thence easterly along Bacon Street to State Highway Route 101; thence northerly along State Highway Route 101 to the State Highway Route 101 entrance ramp at Potrero Avenue; thence along said entrance ramp to Potrero Avenue; thence northerly along Potrero Avenue to 20th Street; thence easterly along 20th Street to Treat Avenue; thence northerly along Treat Avenue to 19th Street; thence westerly along

19th Street to Shotwell Street; thence northerly along Shotwell Street to 18th Street; thence westerly along 18th Street to Lexington Street; thence northerly along Lexington Street to Sycamore Street; thence westerly along Sycamore to the point of commencement.

**TENTH SUPERVISORIAL DISTRICT** shall comprise all of that portion of the City and County commencing at the point of the intersection of the southern boundary of the City and County and the centerline of Robinson Drive; thence northerly along Robinson Drive to Lapham Way; thence northwestly along Lapham Way to the intersection of Lapham Way and Chicago Way; thence northerly along the Linda Vista Steps to Geneva Avenue; thence southwestly along Geneva Avenue to the point of intersection with a southerly straight-line extension of the boundary between Crocker Amazon Playground and John McLaren Park; thence generally northerly along the western boundary of John McLaren Park to Mansell Street; thence westerly along Mansell Street to La Grande Avenue; thence northerly along La Grande Avenue to Brazil Avenue; thence generally northerly along the western boundary of John McLaren Park to the intersection of Burrows Street and Mansfield Street; thence easterly along Burrows Street to Harvard Street; thence southerly along Harvard Street to Bacon Street; thence easterly along Bacon Street to Oxford Street; thence southerly along Oxford Street to Wayland Street; thence easterly along Wayland Street to Cambridge Street; thence southerly along Cambridge Street to the point of intersection with John McLaren Park; thence easterly along the boundary of John McLaren Park to Yale Street; thence westerly along Yale Street to Wayland Street; thence easterly along Wayland Street to University Street; thence northerly along University Street to Felton Street; thence easterly along Felton Street to Bowdoin Street; thence southerly along Bowdoin Street to Burrows Street; thence easterly along Burrows Street to San Bruno Avenue; thence southerly along San Bruno Avenue to Bacon Street; thence easterly along Bacon Street to State Highway Route 101; thence northerly along State Highway Route 101 to the State Highway Route 101 entrance ramp at Potrero Avenue; thence along said entrance ramp to Potrero Avenue; thence northerly along Potrero Avenue to Alameda Street;



thence easterly along Alameda Street to Utah Street; thence northerly along Utah Street to Division Street; thence northeasterly along Division Street to Townsend Street; thence northeasterly along Townsend Street to 7th Street; thence southeasterly along 7th Street to Pennsylvania Avenue; thence northerly along Pennsylvania Avenue to 16th Street; thence easterly along 16th Street to Illinois Street; thence southerly along Illinois Street to the point of intersection with Mariposa Street and Terry A. Francois Boulevard; thence northeasterly along Terry A. Francois Boulevard to the intersection of a straight-line extension of 16th Street; thence easterly along said extension to the shoreline of San Francisco Bay; thence generally southerly along said shoreline to the southern boundary of the City and County and including all piers, rows and vessels south of said intersection; thence along the southern boundary of the City and County to the point of commencement.

ELEVENTH SUPERVISORIAL DISTRICT shall comprise all of that portion of the City and County commencing at the point of the intersection of the southern boundary of the City and County and the center line of Interstate Route 280; thence northeasterly along Interstate Route 280 to a straight line extension of the intersection of Orizaba Avenue, Brotherhood Way and Alemany Boulevard; thence northwesterly and westerly along Brotherhood Way to Junipero Serra Boulevard; thence northerly along Junipero Serra Avenue to Holloway Avenue; thence easterly along Holloway Avenue to Ashton Avenue; thence northerly along Ashton Avenue to Ocean Avenue; thence generally southeasterly and easterly along Ocean Avenue to the southern border of Balboa Park; thence easterly along the southern border of Balboa Park to a point one-third of the distance from the southwest corner of Balboa Park to the southeast corner of Balboa Park; thence northwesterly from said point to the northern border of Balboa Park at Havelock Street; thence westerly on Havelock Street and a straight-line extension thereof to Interstate Route 280; thence generally northeasterly along Interstate Route 280 to a straight-line extension from the intersection of Circular Avenue, Detroit Street and Judson Avenue; thence northerly along said straight-line extension to the intersection of Circular Avenue, Detroit Street and

Judson Avenue; thence northeasterly from said intersection along Circular Avenue to Hearst Avenue; thence easterly along a straight-line extension of Hearst Avenue to Interstate Route 280; thence generally northeasterly along Interstate Route 280 to a straight line extension of Stoneybrook Avenue; thence southerly along said straight-lined extension and Stoneybrook Avenue to Cambridge Street; thence easterly along Cambridge Street to Stoneyford Avenue; thence southerly along Stoneyford Avenue to Gladstone Drive; thence easterly along Gladstone Drive to Sunglow Lane; thence southerly along Sunglow Lane to Silver Avenue; thence westerly along Silver Avenue to Madison Street; thence southerly along Madison Street to Burrows Street; thence westerly along Burrows Street to the intersection with Mansfield Street; thence generally southerly along the western boundary of John McLaren Park to Brazil Avenue; thence southerly along La Grande Avenue to Mansell Street; thence easterly along Mansell Street to the western boundary of John McLaren Park; thence southerly along the western boundary of John McLaren Park to the point of the intersection of a southerly straight-line extension to Geneva Avenue; thence northwesterly along Geneva Avenue to the Linda Vista Steps; thence southerly along the Linda Vista Steps to Lapham Way; thence southeasterly along Lapham Way to Robinson Drive; thence southerly along Robinson Drive to the intersection of the southern boundary of the City and County; thence westerly along said boundary to the point of commencement.

People residing within the boundaries of the City and County as established in Government Code Section 23138 but not on the San Francisco Peninsula or Alcatraz, Yerba Buena and Treasure Islands shall be deemed for the purpose of supervisorial elections to reside in the supervisorial district on the Peninsula closest to the person's place of residence.

Unless specifically designated to the contrary, all references to streets, boulevards, drives, avenues, terraces and ways contained in the foregoing descriptions shall refer to the centerlines of said streets, boulevards, drives, avenues, terraces and ways, respectively.



## APPENDIX F: AUTHORITY AND DUTIES OF CITY SERVICES AUDITOR

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- F1.101. City Services Auditor; Services Audit Unit.
- F1.102. Street, Sidewalk, and Park Cleaning and Maintenance.
- F1.103. Management Practices.
- F1.104. Performance Audits.
- F1.105. Audit Results.
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- F1.107. Citizens' Complaints; Whistleblowers.
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- F1.111. Citizens Audit Review Board.
- F1.112. Outside Experts.
- F1.113. Controller's Audit Fund.
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### F1.100. FINDINGS.

(a) City residents rely upon the government of the city and county to deliver many important services affecting the health, vitality and economy of San Francisco. These include services related to the maintenance and cleanliness of streets and parks, health care, emergency services, transportation and public works. Recognizing the difficult economic times the City faces, preservation and enhancement of such services can be achieved only by ensuring that city services are delivered in an efficient, cost-effective manner, and that government waste and unnecessary bureaucracy are curtailed to the greatest extent possible.

(b) It is often difficult for individual San Franciscans to judge the effectiveness and efficiency of local government in providing direct services to residents because of the size and complexity of city government. Consistent with the goals of open government, City government should establish tools to enable residents to assess the effectiveness and efficiency of city services; to compare the city's progress in delivering such services to that of other cities, counties and government agencies; and, where

appropriate, to adopt "best practices" used in other jurisdictions when consistent with the goals of San Francisco residents.

(c) The San Francisco Controller is uniquely situated to provide objective, rigorous measurement of City service levels and effectiveness because the Controller is already charged with assessment of departmental performance and fiscal soundness. In addition, the Controller is appointed to a ten-year term, and therefore is sufficiently independent to render impartial assessments of the city's provision of public services.

(d) Therefore, this Charter Amendment:

(1) Establishes the Controller as the City Services Auditor, with the authority to conduct independent management and performance audits of departments providing services to San Francisco residents;

(2) Instructs the Controller/City Services Auditor to publish comparisons of the performance of San Francisco departments, the services they deliver, and the outcomes they achieve with other public agencies;

(3) Requires that the Controller/City Services Auditor perform comprehensive financial and performance audits of selected city departments each year;

(4) Mandates that the Controller/City Services Auditor review standards for street and park maintenance in consultation with responsible City departments and perform an annual Clean Streets/Clean Parks audit to track whether these standards are met;

(5) Provides the Controller/City Services Auditor the authority to review citywide standards for government contracting processes and the development of "Requests For Proposals" to ensure that the selection process is fair and unbiased;

(6) Prohibits conflicts of interest in the auditing process by preventing companies that have participated in departmental operations from acting as

outside auditors, requiring that all employees participating in audits be designated confidential employees for labor-relations purposes, and permitting the Controller to obtain outside independent assistance when in-house employees are subject to potential conflicts of interest;

(7) Requires the Controller/City Services Auditor to administer and publicize a whistleblower hotline and website for citizens and employees to report wrongdoing, waste, inefficient practices and poor performance in city government and service delivery;

(8) Authorizes the Citizens' General Obligation Bond Oversight Committee to also function as an independent Citizens Audit Review Board to advise the Controller/City Services Auditor, to recommend departments in need of comprehensive audit, and to review citizen complaints received through the whistleblower program; and

(9) Provides a dedicated source of revenue equivalent to two-tenths of one percent of the budget of the City and County of San Francisco. (Added November 2003)

#### **F1.101. CITY SERVICES AUDITOR; SERVICES AUDIT UNIT.**

(a) In addition to the other duties prescribed by this Charter, the Controller shall perform the duties of a City Services Auditor, responsible for monitoring the level and effectiveness of services provided by the government of the City and County of San Francisco to the people of San Francisco. The City Services Auditor shall establish and maintain a Services Audit Unit in the Controller's Office to ensure the financial integrity and improve the overall performance and efficiency of City government. The Services Audit Unit shall review performance and cost benchmarks developed by City departments in consultation with the Controller and based on their departmental efficiency plans under Chapter 88 of the Administrative Code, and conduct comparisons of the cost and performance of San Francisco City government with other cities, counties and public agencies performing similar functions. In particular, the Services Audit Unit shall assess:

(1) Measures of workload addressing the level

of service being provided or providing an assessment of need for a service;

(2) Measures of efficiency including cost per unit of service provided, cost per unit of output, or the units of service provided per full time equivalent position; and

(3) Measures of effectiveness including the quality of service provided, citizen perceptions of quality, and the extent a service meets the needs for which it was created.

(b) The service areas for which data is collected and comparisons conducted shall include, but not be limited to:

(1) The cleanliness and condition of streets, sidewalks, and the urban environment and landscape;

(2) The performance of other public works and government-controlled public utilities, including water and clean water programs;

(3) Parks, cultural and recreational facilities;

(4) Transportation, as measured by the standards set out in Charter Section 8A.103, provided, however, that primary responsibility for such assessment shall continue to be exercised by the Municipal Transportation Agency pursuant to Charter Section 8A.100 et seq.;

(5) The criminal justice system, including the Police Department, Juvenile and Adult Probation Departments, Sheriff, District Attorney and Public Defender;

(6) Fire and paramedic services;

(7) Public health and human services;

(8) City management; and,

(9) Human resources functions, including personnel and labor relations.

(c) The information obtained using the service measurement standards set forth above shall be compiled on at least an annual basis, and the results of such benchmark studies, as well as comparative data, shall be available on the City's website. (Added November 2003)

#### **F1.102. STREET, SIDEWALK, AND PARK CLEANING AND MAINTENANCE.**

(a) The Services Audit Unit shall conduct annually a performance audit of the City's street, sidewalk, and public park maintenance and cleaning operations. The annual audit shall:

(1) Include quantifiable, measurable, objective standards for street, sidewalk, and park maintenance, to be developed in cooperation and consultation with the Department of Public Works and the Recreation and Park Department;

(2) Based upon such measures, report on the condition of each geographic portion of the City;

(3) To the extent that standards are not met, assess the causes of such failure and make recommendations of actions that will enhance the achievement of those standards in the future;

(4) Ensure that all bond funds related to streets, parks and open space are spent in strict accordance with the stated purposes and permissible uses of such bonds, as approved by the voters.

Outside of the audit process, the City departments charged with cleaning and maintaining streets, sidewalks, and parks shall remain responsible for addressing individual complaints regarding specific sites, although the Controller may receive and investigate such complaints under Section F1.107.

(b) In addition, all city agencies engaged in street, sidewalk, or park maintenance shall establish regular maintenance schedules for streets, sidewalks, parks and park facilities, which shall be available to the public and on the department's website. Each such department shall monitor compliance with these schedules, and shall publish regularly data showing the extent to which the department has met its published schedules. The City Services Audit Unit shall audit each department's compliance with these requirements annually, and shall furnish recommendations for meaningful ways in which information regarding the timing, amount and kind of services provided may be gathered and furnished to the public. (Added November 2003)

### **F1.103. MANAGEMENT PRACTICES.**

The City Services Audit Unit shall:

(1) Conduct and publish an annual review of management and employment practices, including City policies and MOU provisions, that either promote or impede the effective and efficient operation of city government;

(2) Identify the top five City departments by workers compensation claims, list the cost of these

claims, and recommend ways to reduce both workplace injuries and improper claims;

(3) Identify the top five departments by overtime expenditures and report on the cause and potential mitigations for any excessive overtime spending; and,

(4) Conduct best practices reviews and other studies and assist departments in implementing their findings. (Added November 2003)

### **F1.104. PERFORMANCE AUDITS.**

The City Services Audit Unit shall conduct periodic, comprehensive financial and performance audits of city departments, services, and activities. Except as provided in Section F1.102, the Controller shall have discretion to select, on a rotating basis, departments, services, and activities for audit, giving priority to matters affecting direct services to the residents of the City and County of San Francisco. In selecting audit subjects, the Controller shall give preference to requests for performance audits made by the Audit Review Board, the Mayor, the Board of Supervisors, department heads, and commissions; provided, however, that absent extraordinary circumstances, no department, activity, or service shall be subject to repeated audits in two successive years. (Added November 2003)

### **F1.105. AUDIT RESULTS.**

(a) Before making public any portion of any draft, notes, preliminary or final report relating to the operations or activities of a City officer or agency, the Controller shall deliver a copy of the draft report to any such officer, and to the head of any agency discussed in such report and provide the officer and agency, in writing, with a reasonable deadline for their review and response. The Controller shall include in any report, or portion thereof that is made public, a copy or summary of all such officer and agency responses. In addition, the audit shall include an analysis of the anticipated costs and/or savings of any recommendations contained in the report.

(b) The Controller shall publish the results of all final performance audits and a summary of agency responses, shall deliver copies of such audits to relevant department heads, Audit Review Board, Mayor, City Attorney, Board of Supervisors, San



Francisco Civil Grand Jury, and San Francisco Public Library, and shall make the audits available on the City's website. Each department subject to recommendations by the Controller shall include with its next two annual budget requests following such audit a report on the status of the Controller's recommendations. In particular, the report shall include:

- (1) the Controller's final audit recommendations;
- (2) a plan to address the Controller's findings and to implement the Controller's recommendations;
- (3) any costs or savings reflected in the proposed budget attributable to implementation of Controller recommendations; and
- (4) a statement of the recommendations that the department does not intend to implement and the basis of the department head's determination not to adopt the Controller's recommendation.

(c) To avoid conflicts of interest, all employees engaged in preparation of audits shall be designated as confidential employees. If the Controller determines that any member of the regular audit staff is unable to participate in an audit due to a potential conflict of interest, or as a result of the employee's collective bargaining representation, the Controller shall have the option of assigning other employees regardless of civil service job description, hiring outside experts, or contracting for such services with an outside individual or agency. (Added November 2003)

#### **F1.106. OVERSIGHT OF CONTRACTING PROCEDURES.**

The Controller shall have the duty to perform regular oversight of the City's contracting procedures, including developing model criteria and terms for City Requests for Proposals (RFPs), auditing compliance with City contracting rules and procedures, and, where appropriate, investigating cases of alleged abuse or conflict of interest. Nothing in this Section shall be construed to alter the existing jurisdiction of City departments and agencies with respect to contracting. Should the Controller find that there has been an abuse or conflict of interest, he or she shall refer that finding to the Ethics Commission, the District Attorney, and the City Attorney for possible enforcement action. (Added November 2003)

#### **F1.107. CITIZENS' COMPLAINTS; WHISTLEBLOWERS.**

(a) The Controller shall have the authority to receive individual complaints concerning the quality and delivery of government services, wasteful and inefficient City government practices, misuse of City government funds, and improper activities by City government officers and employees. When appropriate, the Controller shall investigate and otherwise attempt to resolve such individual complaints except for those which:

- (1) another City agency is required by federal, state, or local law to adjudicate,
- (2) may be resolved through a grievance mechanism established by collective bargaining agreement or contract,
- (3) involve allegations of conduct which may constitute a violation of criminal law, or
- (4) are subject to an existing, ongoing investigation by the District Attorney, the City Attorney, or the Ethics Commission, where either official or the Commission states in writing that investigation by the Controller would substantially impede or delay his, her, or its own investigation of the matter.

If the Controller receives a complaint described in items (1), (2), (3), or (4) of this paragraph, the Controller shall advise the complainant of the appropriate procedure for the resolution of such complaint.

(b) If the Controller receives a complaint alleging conduct that may constitute a violation of criminal law or a governmental ethics law, he or she shall promptly refer the complaint regarding criminal conduct to the District Attorney or other appropriate law enforcement agency and shall refer complaints regarding violations of governmental ethics laws to the Ethics Commission and the City Attorney. Nothing in this Section shall preclude the Controller from investigating whether any alleged criminal conduct also violates any civil or administrative law, statute, ordinance, or regulation.

(c) Notwithstanding any provision of this Charter, including, but not limited to Section C3.699-11, or any ordinance or regulation of the City and County of San Francisco, the Controller shall administer a whistleblower and citizen complaint



hotline telephone number and website and publicize the hotline and website through press releases, public advertising, and communications to City employees. The Controller shall receive and track calls and emails related to complaints about the quality and delivery of government services, wasteful and inefficient City government practices, misuse of government funds and improper activities by City government officials, employees and contractors and shall route these complaints to the appropriate agency subject to subsection (a) of this Section. The Board of Supervisors shall enact and maintain an ordinance protecting the confidentiality of whistleblowers, and protecting City officers and employees from retaliation for filing a complaint with, or providing information to, the Controller, Ethics Commission, District Attorney, City Attorney or a City department or commission about improper government activity by City officers and employees. The City may incorporate all whistleblower functions set forth in this Charter or by ordinances into a unified City call center, switchboard, or information number at a later time, provided the supervision of the whistleblower function remains with the Controller and its responsibilities and function continue unabridged. (Added November 2003)

#### **F1.108. CUSTOMER SERVICE PLANS.**

The Controller shall assess the progress of City departments' compliance with Charter Section 16.120 and any implementing ordinances requiring City departments to prepare effective customer service plans. The Controller shall make recommendations to departments to improve the effectiveness of such plans. The Controller shall report to the Board of Supervisors and Mayor the failure of any department to comply substantially with the Controller's recommendations regarding customer service plans. (Added November 2003)

#### **F1.109. LEGISLATION.**

The Controller may propose legislation to the Board of Supervisors and the Mayor to improve City programs and services and to make the delivery of such programs and services more efficient. (Added November 2003)

#### **F1.110. ACCESS TO RECORDS; PRELIMINARY REPORTS.**

(a) The Controller shall have timely access to all records and documents the Controller deems necessary to complete the inquiries and reviews required by this Appendix. If a City officer, employee, agency, department, commission, or agency does not comply with the Controller's request for such records and documents, the Controller may issue a subpoena. The provisions of this subdivision shall not apply to those records and documents of City agencies for which a claim of privilege has been properly and appropriately raised, or which are prepared or maintained by the City Attorney, the District Attorney, or the Ethics Commission for use in any investigation authorized by federal, state law or local law.

(b) Notwithstanding any other provision of this Charter, or any ordinance or regulation of the City and County of San Francisco, and except to the extent required by state or federal law, all drafts, notes, preliminary reports of Controller's benchmark studies, audits, investigations and other reports shall be confidential. (Added November 2003)

#### **F1.111. CITIZENS AUDIT REVIEW BOARD.**

In addition to its duties under Article V of Chapter 5 of the Administrative Code, the Citizens' General Obligation Bond Oversight Committee shall serve as a Citizens Audit Review Board. In its role as the Review Board, the Oversight Committee shall provide advisory input to the Controller on matters pertaining to the functions set forth in this Appendix, and, in particular, shall:

(1) Review the Controller's service standards and benchmarks to ensure their accuracy and usefulness;

(2) Review all audits to ensure that they meet the requirements set forth above;

(3) Subject to appropriate rules ensuring the confidentiality of complainants, as well as the confidentiality of complaints referred to and handled by the District Attorney, the City Attorney, and the Ethics Commission, review citizen and employee complaints received through the whistleblower/complaint hotline and website and the Controller's disposition of those complaints; and

(4) Where it deems appropriate, hold public hearings regarding the results of benchmark studies and audits to encourage the adoption of "best practices" consistent with the conclusions of the studies and audits. An audio or video recording of such hearings shall be made available for public inspection free of charge. (Added November 2003)

#### **F1.112. OUTSIDE EXPERTS.**

(a) Notwithstanding any other provision of this Charter or any ordinance or regulation of the City and County of San Francisco, the Controller shall be authorized to contract with outside, independent experts to assist in performing the requirements of this Appendix. In doing so, the Controller shall make good faith efforts as defined in Chapter 12D of the Administrative Code to comply with the provisions of Chapters 12 et seq. of the Administrative Code, but shall not be subject to the approval processes of other City agencies. The Controller shall submit an annual report to the Board of Supervisors summarizing any contracts issued pursuant to this Section and discussing the Controller's compliance with Chapters 12 et seq. Contracts issued by the Controller pursuant to this Section shall be subject, where applicable, to the requirements of Section 9.118.

(b) No outside expert or firm shall be eligible to participate or assist in an audit or investigation of any issue, matter, or question as to which that expert or firm has previously rendered compensated advice or services to any individual, corporation or City department other than the Controller. The Controller shall adopt appropriate written regulations implementing this provision, and shall incorporate this requirement in all written contracts with outside experts and firms utilized pursuant to this Section. (Added November 2003)

#### **F1.113. CONTROLLER'S AUDIT FUND.**

Notwithstanding any other provision of this Charter, the Mayor and Board of Supervisors shall be required to budget an amount equal to at least two-tenths of one percent (0.2%) of the City's overall budget, apportioned by fund and excluding bond related debt, to implement this provision. This amount shall be referred to as the Controller's Audit Fund, and shall be used exclusively to implement the

duties and requirements of this Appendix, and shall not be used to displace funding for the non-audit related functions of the Controller's Office existing prior to the date this provision is enacted. If the funds are not expended or encumbered by the end of the fiscal year, the balance in the fund shall revert to the General Fund or the enterprise funds where it originated. (Added November 2003)

#### **F1.114. OPERATIVE DATE; SEVERABILITY.**

(a) This charter amendment shall be operative on July 1, 2004. This amendment shall not affect the term or tenure of the incumbent Controller.

(b) If any section, subsection, provision or part of this charter amendment or its application to any person or circumstances is held to be unconstitutional or invalid, the remainder of the amendment, and the application of such provision to other persons or circumstances, shall not be affected. (Added November 2003)







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